

## The Voluntary Declaration of Taxes in Cameroon: a Legal Analysis

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**Abstract:** The development of any country depends mostly on the amount of revenue generated by the government through taxation for the provision of infrastructure facilities, social amenities, good standard of living, economic and political domains. The loopholes and complexities on tax laws have impeded the ability of the government of Cameroon to meet up with her developmental projects because taxes could not be fully recovered. From the provisions of the code, it is clear that statutory tax payers can only effect declaration on special official forms supplied by the Cameroonian tax authorities prepared. Looking at this from the perspective of contract, taxpayers will have no option than to furnish the tax administration with the required information as demanded by the form, it therefore becomes a contract of adhesion necessitating the protection of the weaker party. That is the taxpayer from the cumbersome nature of tax declaration through simplification. The above will discourage the taxpayers in involving in that cumbersome nature of tax declaration which will affect tax administrators in effecting their duties because they will need to run behind taxpayers for them to declare their taxes.



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### I. INTRODUCTION

The obligation to pay tax under Cameroon's laws has as its basis the preamble of Cameroon's 1996 Constitutions, as amended in 2008 which is to the effect that, "Every person shall share in the burden of public expenditure according to his/her financial resources.<sup>1</sup> The same constitution has vested powers on the legislature, which stipulates that the creation of duties and the determination of their basis of assessment, rates and methods of collection shall be decided by the House of Representative.<sup>2</sup> The same constitution provides that in situations where tax matters are not reserved to the legislative power, it shall come under the foundation of the authority empowered to issue rules and regulations.<sup>3</sup> This is also made mention of by section 29(6) of the

<sup>1</sup> A tax is a compulsory contribution imposed by a public body upon the authority of the legislature and for a public purpose.

<sup>2</sup> Article 26(d) of the Cameroon Constitution

<sup>3</sup> Article 27 of the Cameroon constitution

African Charter,<sup>4</sup> which provides that “an individual shall also have the duty to work to the best of his abilities and competence and to pay taxes imposed by law in the interest of the society”. We can therefore say that, everyone has a duty within his rights to pay taxes.<sup>5</sup> However, relevant tax authorities, in trying to put the defaulting taxpayers into their net, adopt the use of some techniques and procedures of enforcement.

Any tax system that ignores the tax laws and the administrative aspect is deemed to be attractive just on paper, it is on the basis of this that we can say, it is not easy to lay down an optimum tax structure in a developing country because there is an inevitable problem between a defined policy and the ability to execute this policy. A tax system has to be politically acceptable and in conformity with administrative capacities of the authorities. However, every tax system poses its own problems. Over the course of the most recent decades, Cameroon has witnessed fluctuating levels of taxation due to many difficult economic circumstances, the weaknesses of the tax administrative capability, the implementation of inappropriate fiscal policies, the burden of taxation, the inconsistency of the incentive system worsened by increasing fraud, just to mention a few.<sup>6</sup> Faced with the unprecedented economic and financial crisis that ensured the government initiated a series of reforms to organize in the context of the Structural Adjustment Programmed (SAPs) supported in particular, by the International Monetary Fund (IMF) and the World Bank. So, from this perspective, the level of tax revenue must be adequate to avoid public finance imbalances.<sup>7</sup>

Despite efforts made by the Cameroon government to put in place a proper legislation to manage tax issues, there are still some loopholes which paralyze tax declaration and collection of tax proceeds. There are loopholes and complexities in tax laws which impede the ability of the government to meet up with her developmental projects. The country also suffers from the fragmentation of regulatory powers within the ministry of Finance, which participates in the complexity and multiplicity of the actual tax regime. Besides, the inadequate well-trained personnel's a call for concern;<sup>8</sup> this explains why some times tax personnel discharge their duties with lack of professionalism such as preparing an undated recovery notice as seen in the case of *KUEMO Michel C/ ETAT Du Cameroon*.<sup>9</sup> Furthermore, Cameroon tax payers are generally subjected to many taxes and high tax rates which lead to tax evasion;<sup>10</sup> this is a serious issue affecting the declaration of taxes.<sup>11</sup> With regard to the problems stated above, we are tempted to ask the following questions:

- How effective is the Cameroonian legislation on tax declaration?
- What are tax declaration mechanisms in Cameroon?

Our objective here is to show how the Cameroon tax legislation provides a favorable ground for voluntary tax declaration in Cameroon.

<sup>4</sup> African Charter on Human and Peoples Rights, 20<sup>th</sup> July 1979.

<sup>5</sup> Tax compliance is the level at which a taxpayer complies or default the tax rules of their country. See Law No. 2004/18 of 22nd July 2004 and Law No. 2004/19 of 22nd July, 2004 on the rules applicable to regional and local councils respectively empower the local council authorities to levy taxes in Cameroon.

<sup>6</sup> Fombon (S), “Taxation in Developing Countries Case Study of Cameroon”, Journal No 2006/02, University of Yaounde II, 2006, P1

<sup>7</sup> Ibid

<sup>8</sup> Monkaree (A), “lecture note on taxation”, F.S.J.P. University of Dschang. 2017, Pg 17.

<sup>9</sup> Judgment No 107/04-05 du 1ere Juin 2005.

<sup>10</sup> Amadou (M). Op.cit Unpublished.

<sup>11</sup> This can be evident in the case of *Maitre FANDIO Zacharie C/ ETAT DU Cameroon*, Judgment No 63/2008 of 6<sup>th</sup> March 2008.

## II. THE TAX DECLARATION MECHANISM IN CAMEROON

The procedure of declaring and paying taxes determines the level of government tax revenues. Tax revenues are, however, indispensable for government spending. The ease in the procedure of declaration and payment determines the effectiveness in the collection of taxes. In Cameroon, the General Tax Code guides taxpayers and tax administrators on the procedures of filing and paying taxes. This work provides a comprehensive review of the procedure of declaring and paying taxes. It concludes with the implications of e-filing<sup>12</sup> in a government's push to digitalize the taxation system, improve transparency, accountability, and good governance. Cameroon practices a self-declarative tax system.<sup>13</sup> This signifies that, each and every taxpayer presupposes to freely declare and pay his or her taxes happily to the State with no constraint.<sup>14</sup> Evident is in the 2016 report from the Directorate General of Taxation which revealed that in 2016, 90.3% of revenue mobilized by the DGT was derived from the management function (voluntary payments done by taxpayers).<sup>15</sup>

Taxpayers in Cameroon have two obligations: (i) the obligation to declare taxes<sup>16</sup> and (ii) the obligation to pay taxes<sup>17</sup>. Taxpayers have up to the 15th of every month to fulfill both obligations, if not suffer penalties. Declaring and paying of taxes can only be done after registration and the issue of a number to the taxpayer. According to the 2020 tax code of Cameroon, obtaining a taxpayer's number is obligatory for both institutions and citizens and is the 1<sup>st</sup> step today for every taxpayer, be it moral or physical person.

The General Tax Code for 2020 stipulates that any natural or legal person is liable, as a statutory or actual taxpayer, to payment of tax duty. Each natural or legal person must file an application for registration with the competent tax authority of his area. This should be done within 15 working days following the start of his activities and attach to such application a site plan of the business. A single identification number shall be attributed permanently by the Directorate General of Taxation upon the effective location of the taxpayer. After the completion of the registration procedure, the Tax authority shall issue a taxpayer's card free of charge to the taxpayer. The validity of the taxpayer's card shall be 10 years. Taxpayers, upon obtaining a taxpayer's number, must declare their returns with the tax administration before the 15th of every month. There are two ways of declaring taxes: Manual declaration and Electronic declaration. The procedures for declaration and payments, therefore, differ depending on the taxpayer. While taxpayers of small tax units (Regime Simplifié) declare their taxes manually and pay by cash, those of Medium size tax Units, Large Tax Units, and Specialized Tax Centers today can carry out declarations of taxes and payments electronically.

Before taxes are recovered, they are declared and must be duly assessed by the tax authority who must established clearly what to be paid. The purpose of assessment is to create a fair, clear and certain set of rules with which to objectively determine the value of properties of a similar class within a Municipality or Nationwide. Chapter three of the general Tax Code focuses on the governance perspective as regards tax declaration and payment procedures in Cameroon. It both examines manual and electronic procedures of tax declaration and payment.

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<sup>12</sup> Fossong (D) and Ndi (M), Ashu and Santoro (f), "Digital tax policy and tax revenue collection in Cameroon" working papers 18233, Institute of development studies, International Centre for Tax and development, 2003.

<sup>13</sup> Section M52 of the Cameroon GTC provides that; "The Competent Tax Revenue Collector shall collect the duties and taxes assessed by taxpayer in their returns and paid on their own initiative upon filing them. They shall also collect the sums assessed by the tax authority on verbal declaration of taxpayers or during controls".

<sup>14</sup> Section 149 of the GTC .

<sup>15</sup> General Directorate of Taxation Annual General Report, 2016, p33, (RA DGI 2016 En.pdf (impois.com)

<sup>16</sup> Section 74a(1) of the General Tax Code, the annual income tax must be submitted, and the resulting tax liability settled, no later than June 30<sup>th</sup> of each year.

<sup>17</sup> Section 7 of the General Tax code states that Net taxable profit shall be established after deduction of all charges directly entailed by the exercise of the activity subject to assessment in Cameroon.

### **A) Manual Declaration and Payment Procedure for Taxpayers at Small Tax Units**

Taxpayers in small tax Units<sup>18</sup> declare their taxes manually and can pay by cash because most often, the amounts are less than 100.000 FCFA. These taxpayers are required to declare their taxes before the 15th of every month. From field research, taxpayers of this unit go through the following process to declare and pay their taxes.

Two official tax forms are filled for declaration, and after verification and confirmation of income amount for the Month following payment and receipt documents, both forms are stamped by the tax administrator with authorization to pay. Upon cash payments at the cash desk of the center, the cashier acknowledges payment by a payment stamp on the declaration form. The taxpayer then deposits one copy of the form with the tax administrator and keeps another copy for future control and audit.

#### **The procedure for tax declaration**

Tax declaration in Cameroon is effected by the tax authority as a standard form contract or a contract of adhesion where one party unilaterally prepared and the tax payer has little or no say to modify the contract, rather follow as prescribed. This enables the tax authority in fixing the tax base or the quantum of tax to be paid. Once any economic activity has been initiated and an income earned, be it physical or corporate in nature must also follow suit by filing tax returns which is an obligation owed by the tax payer. Also he or she must preserve or retain accounting documents this is because it will facilitate verification so to ensure the truthfulness of tax returns declared by the taxpayer and for identification purpose should in case of corrections or to give tax authorities the possibilities of easy enquiry and extraction of information in the process of investigation so as to fight against tax evasion.

The tax payer will have to go to the reception office of the tax Center of his locality within the time limits prescribed by the law to declare his tax and file returns. The reception office will direct them to the Chief of Department of Taxation (CDT) who will receive the declaratory documents putting the required stamps and signing on it.<sup>19</sup> The CDT will proceed to control declaration if need be. After he has signed the declaratory document he will then sent it to the Chief of Single Tax Representatives (STR) he then offer the tax payer a certificate noting his activities. The tax payer will go to the collection for payment with his Issuing Certificate(IC). A file composed of the receipt and a copy of the issuing certificate is return to the chief of single tax representative who then examine it and gives back to the tax payer a copy of each. On or before 15 of March, taxpayers are expected to submit to the Tax Administration the Annual return of revenue derived from their business, this date is worth noting when it comes to taxation in Cameroon, it has also been mentioned several times in the GTC of Cameroon. It is the latest date for businesses to file in their statistics and return for the previous fiscal year- We should note that an advance payment shall be 10% for any taxpayer that is not on the register of a tax office.

#### **Notice to File Returns**

Any taxable person or tax payer who fails to file a return within the time limit prescribed by law shall receive a letter reminding him to do so. He shall then have 15 (fifteen) days within which to regularize his situation.<sup>20</sup> Notice to file return is a very important awareness created by the tax authorities if the tax payer does not regularize his tax situation, he may be subject to arbitrary assessment as prescribed by the law<sup>21</sup>. When this notice is received by the said tax payer and any failure to file return, forfeits his rights as prescribed by the code. He shall also be subject to the

<sup>18</sup>Term used in the context of personal income tax, where taxation may be imposed by reference to separate individuals or to a group of individuals treated as one unit

<sup>19</sup>Atebezi (C.K), op.cit.

<sup>20</sup> Section M. 3, GTC, 2017.

<sup>21</sup> Section M.29 of the GTC.

penalties prescribed for failure to make a return by the code as well as subject to principal penalties for consuming the state revenue by violating the tax law.

Payment of taxes is a civic duty established and legalized by the Cameroon constitution<sup>22</sup>, this explain why failure to file return is a criminal offence which is punishable by the law. A taxpayer who fails to file a return within the time limit prescribed by the law shall receive a letter of notice reminding him to do so. Failing to do so shall attract arbitrary assessment by the tax authority under the conditions provided in Section M.29<sup>23</sup> and also an increase in tax by 100% and shall increase to 150% in case of further offence.<sup>24</sup> This notice is very important initiated by the tax authority.

The filing of return showing nil or a credit following an official warning , shall give rise to a fix fine of 1.000.000 (one million) CFAF and it shall again rise to 1.000.000FCFA per month if after the warning he still not comply within the statutory deadline. A fine of 100.000FCFA shall be attributed to whosoever is engage in an economic activity without prior registration.<sup>25</sup> More so, any fraudulently use of a single identification number shall be liable to a fine of 1.000.000FCFA (One million) per transaction. Whoever fails to file a return giving rise to arbitrary assessment shall therefore loss his right to deductions and Value Added Tax (VAT) credit relating to a previous period.

### **Inadequate returns by the tax payer**

Taxpayers must think carefully about all the activities that might result in issuing them a tax document before filing a return. According to the tax rules, it is mandatory to make certain disclosures while filing your tax return. Failure to do so can have serious consequences. Inadequate return may occur by omission or fraud affecting the tax base or data, and which have led to the tax authority to make adjustments shall give rise to the application of a 1.5% interest in arrears per month up to the maximum of 50%, calculated on the basis of charges to be borne by the tax payer following notification of the last procedural deed in case of control. Anyone who in case of inadequacies, omission or inaccuracies file a return shall be calculated interest in arrears starting from the day it was deposited up to the last day of the Month he was notified for adjustment<sup>26</sup> and any month that is mentioned is considered as a full Month, the maximum interest in arrears being 50%.<sup>27</sup> Some of the most common tax filing mistakes happens when people file their tax returns. A fixed fine that may go up to 5.000.000FCFA (five million) shall be applied to any person who gives false information in an attempts to avoid or object to the right to information or notice to third party holder.

### **Obligation to preserve documents**

Any tax payer must make sure they have all the documents needed before filing a return. Spoliation is a serious issue in litigation, knowing that a good rule of thumb is to save any document that verifies information on your tax return. Failure to preserve both papers and electronic records properly can be detrimental to your case and could result in your case being dismissed. Taxpayers are oblige to produce to the tax authority all mandatory accounting documents and records supplemented, where necessary, by the accounting items applicable to the nature of the activity undertaken, in order to establish the genuineness of the information mentioned in the tax return.<sup>28</sup> See the case *Aigle Voyages C\ Etat du Cameroon*, for clarity of

<sup>22</sup> See the Cameroon constitution, in its preamble. Op. cit.

<sup>23</sup> GTC, Section M. 3.

<sup>24</sup> GTC, section M. 97

<sup>25</sup> GTC, Section M.100

<sup>26</sup> GTC, Section M. 95.

<sup>27</sup> GTC, Section M. 98.

<sup>28</sup> GTC, Section M. 4.



doubt.<sup>29</sup> To be deemed conclusive, this document must be certified by a CEMAC Chartered Accountant registered in the role of the other, or validated by an approved management center. However, the account realizing an annual turnover of below 250 million francs shall be deemed conclusive if kept by a CEMAC approved accountant. The veracity or validity to file tax return is not supposed to be determined by the absolute text of an individual just because he or she is a Charter Accountant from CEMAC, this is because man is generally corrupted and there is a possibility of approving a false return if personal pockets are filled. The *raison d'être* why taxpayers are obliged to keep or preserve accounting documents is to ensure that the situation of the tax payer has not change since the declaration of his tax, which is to ensure the veracity of taxes declared by the tax payer. It is also for identification purpose should in case of necessity for correction; it further enables the tax authority for the extraction of information and easy inquiring during investigation.

### **Period for the preservation of documents**

Books, registers, documents over which the right to control, right to access and right to investigate may be exercised by the tax authority, and any form whatsoever, must be preserved at least for a period of 10 (ten) years, from the date of the last operation they recorded therein or from the date when the documents were drawn up.<sup>30</sup>

### **B) Online declaration of taxes in Cameroon**

#### **Electronic declaration of taxes**

Electronic Procedure for Tax declaration is done by taxpayers of Medium Size Tax Units, Large Tax Units, and Specialized Tax Centers<sup>31</sup>

This measure has changed somewhat in the context of the execution of the 2021 finance law, and in particular in the related circular, signed on December 30th by the Minister of Finance, Louis Paul Motaze. Intending to secure revenue, the Minister prescribes “the prohibition of the payment of taxes and duties in cash to the fiscal network and the generalization to the Divisional Computerized Tax Centers of the payment methods enforced in the specialized management units, namely payment by bank transfer or electronically.” Also, the Minister establishes electronic payment as a compulsory mode of payment of taxes and duties for large companies falling within the portfolio of the management of large companies. The text exceptionally authorizes the payment of taxes in cash only at bank counters. Also, the circular enshrines the issuance and notification of receipts by electronic means, with the consequence of eliminating manual receipts, which are sources of “various fraud.”

But, as always, a governance problem looms in the implementation which is postponed: we can read that “The modalities of implementation of this reform will be defined by a specific text of the Minister of Finance” and this is a way of killing this reform and going back to the old manual mode that we present below.

#### **The procedure for e-filing**

According to the results of field research at the Specialized Tax Centre of Yaoundé, where taxpayers have access to the online filing and payment platform, taxpayers of the large tax unit, medium size unit, and specialized tax centers go through the following procedures to declare and pay taxes electronically:

- a) The procedure of online declarations begins with the creation of an online account and password by the taxpayer on the website.

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<sup>29</sup> Judgment N0 288\2010\CA\CS Du 22 September 2010.

<sup>30</sup> Section M.5. of the GTC.

<sup>31</sup> Simplification of Tax Declaration and Payment Formalities, CEMA SARL – October 2009

- b) Taxpayers of the above-mentioned units can declare their taxes online on or before the 15<sup>th</sup> of every Month. Upon declaration of their income, the system (FISCALIS) automatically generates a document serving as authorization for the taxpayer to make payment of the corresponding amount.
- c) The taxpayer is required to print out the authorization document for payment and make payments of the corresponding amount electronically.
- d) The taxpayer, after making payments, files all documents online together with the receipts from the payment and also attaches supporting documents as evidence for the declaration and payments made.
- e) Tax authorities from their desk can carry out control from the declaration made online, payment, and attach supporting documents.<sup>32</sup>

The obligation to declare returns does not only apply to moral persons but also apply to public, and private sector salaried employees, foundations, associations, non-profit organizations, managers or beneficiaries of trusts, insurance trusts, or similar entities, as well as foreign taxpayers are operating in Cameroon without a head office there-in. Accordingly, they must appoint a solvent representative accredited by the tax authority.

Most often than not, different employers in different sectors deduct income taxes on the income of their employees, declare these incomes at the end of every month, and make the corresponding payments on behalf of the employees. This is similar to the act of large public corporations or private companies with government authorization to deduct and retain taxes such as value-added tax and income tax from payments they make to other smaller institutions or businesses and therefore declare and pay the corresponding taxes to the state.

Few initiatives have been made to facilitate the procedures of declaring and paying taxes. Notably, the adoption of electronic means of declarations for Large Tax Unit, Medium Size Taxpayers Office, and taxpayers in the specialized tax centers for public establishments or enterprises. This, however, has not facilitated the process because the electronic system has been facing several challenges ranging from the inefficiency of the website to internet problems, among others which have rather made the procedure difficult. As concerns the small taxpayers' unit, they still face the challenge of queuing up in tax centers for declarations and payments.

Technical works for the implementation of the infrastructures initiated a special program (FISCALIS) as well as a secure data transmission network from the companies to the administration, so as from the 30<sup>th</sup> of December 2016 about 100% of the companies in the Large Tax Unit filed their returns electronically. The DGT extended the e-filing process to all MTOs and the major specialized tax centers nationwide during the 2016 fiscal year. The e-filing process is now effectively operational in all MTOs and about 95% of tax payer's recourse to this system to file in their taxes.<sup>33</sup> Also the pre-filled tax return and Mobile Tax (payment of taxes via mobile telephone) all aim at facilitating the fulfillment of tax return and thus payment obligation by the Small and Medium Size Enterprises (SMEs) and individuals.

### III. TAX ASSESSMENT AS AN EFFECTIVE STEP TO RECOVERY

Tax assessment is the whole process of measurement of a taxable person's tax obligation and putting him on notice in respect thereof. It involves;

- Ascertaining the base or assessable profit of the tax;
- Granting all the relief and allowances as prescribed by the law;

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<sup>32</sup> Ibid.

<sup>33</sup> Directorate General of Taxation Annual Report, 2016.

➤ Applying the relevant tax rate

There are two classifications of assessment, official assessment and self-assessment;

**Official assessment/pre-filled declaration**

Official assessment or revenue assessment or government assessment is established by the tax authority and communicated to the taxpayer in a notice. The calculation of the tax payable may be based on the taxpayers return or it can be estimated on the assessors best of judgment. This assessment is open to dispute since; naturally, the assessor wants to establish the maximum possible tax indebtedness while the taxpayer wants the minimum tax obligation.

**Self-Assessment**

Self –assessment is mostly practiced in Cameroon. A self-assessment is a system under which the taxpayer is entrusted with the responsibility for assessing himself to the tax and paying the assessed tax as stipulated by the law. Self-assessment eliminates objections and protracted arguments between the tax authority and tax payers. It is traditionally agreed that a good tax system is financially profitable, socially equitable, economically incentive and technically simple capable of ameliorating the business environment rather than scaring potential investors<sup>34</sup>. Before taxes are recovered or collected, there must be duly assessed by tax authorities who must establish clearly who should pay and what to pay in other words, the quantum of the tax. The purpose of assessment is to create a fare, clear and certain set of rules with which to objectively determine the value of properties of a similar class or type within a municipality or Nation-wide.

Cameroon practices a declarative tax system. In other words, taxpayers have to declare their income and how much taxes they have paid. On the one hand, this can be done manually at the level of small tax units before the 15th of every month. On the other hand, the declaration can be made online, on or before the 15th of every month, via the payment platform FISCALIS for taxpayers of the large tax unit, medium-size unit, and specialized tax centers. To secure revenues and harmonize procedures, the Minister of Finance, in December 2020, prohibited the payment of taxes and duties in cash to the fiscal network. But, a good number of taxpayers still face difficulties using the online system effectively. This is the reason why some taxpayers still prefer to take stands at tax offices to declare their taxes manually. Consequently, the objective of making easy and rapid the filing and payment of taxes has not been fully attained.

Tax assessment is the job of determining the value, and sometimes determining the use, of property, usually to calculate a property tax. This is usually done by an office called the assessor or tax assessor. A property tax assessment is a determination of the market value of a piece of property. Assessment is usually prepared as of a specific date each year and they are often based on recent sales of comparable properties in the area.<sup>35</sup>

It is presumed that the declaration made by the taxpayer is sincere though not conclusive that is why the Cameroon General Tax Code gives the rights to tax authorities to control such declaration so as to assess the quantum of tax to pay by the tax payer. This means the tax authorities may do the control and end up rejecting the return filed by the tax payer if there is any doubt or do some corrections if necessary see the case of SOCIETE NKUITE & CIE C/ Etat du Cameroon.<sup>36</sup> Tax authorities are empowered to control the bases of all taxes payable by the taxpayers, this is either done on the spot, desk auditing or requests for clarification and adjustment of which if need be pending on errors or omissions as the case may be. Such tax authority must be a sworn officer at least at the level of a tax inspector. Tax control may arise during assessment, recovery and during

<sup>34</sup>Atebezi (C.K), "Tax declaration and control under the Cameroonian Law, FSJP, University of Dschang, 2016.

<sup>35</sup> [www.thebalance.com](http://www.thebalance.com)

<sup>36</sup> GTC Section, M. 6.



proceedings<sup>37</sup> and any taxpayer who fails to file his return within the prescribed period lay down by the law will be subjected to arbitrary assessments.

### **A. Principles of tax assessment**

A pure assessment system based in market value and regulatory approach helps to guide smart tax policy. It lays the ground work to ensure the property tax burden is shared appropriately among all applicable tax payers, which then leaves it to policy makers to adjust tax weighting based on policy decisions. Some property taxes are levied municipally while others like education tax are levied regionally. This multiple tax beneficiaries make the payment of taxes ambiguous and cumbersome to the tax payer (SMEs inclusive). To guaranty the declaration and assessment process works, Cameroon's assessment system has to continue to meet the internationally accepted standards and principles of assessment and valuation policy<sup>38</sup>. The market value system is regarded as the best property assessment mechanism available<sup>39</sup> of course, periodic reviews and updates that accounts for changing economic, technological and social realities are necessary to make sure that it remains current.

### **Modalities for the exercise of the rights to control**

The power to control the bases of all taxes and duties due by the taxpayer's appertains solely to tax officials of the rank of tax inspectors<sup>40</sup> who are empowered to initiate control. The taxpayer has to be notified 8(eight) days before the date of the first intervention in the taxpayer business premises that he would be subject to control. This is to enable the taxpayer prepare his tax situation and all required documents needed for the control. This is done by sending a verification notice to the taxpayer accompanied with a copy of the taxpayer charter where an acknowledgement of receipt is issued after handing the documents to the taxpayer. Notice of verification also provides the taxpayer with detailed information on the nature and purpose of control such that it has to state;

- The date of commencing the control, provided the taxpayer has the possibility to request in writing within 15(fifteen) days after receiving the notice of verification to postpone the date of control. The notice of verification gives the taxpayer a clear picture of taxes and duties to be controlled by the verifier on the taxpayer.
- Premises and it equally gives a clear picture of taxes and duties and also to notify the taxpayer the length of such control.

Despite the necessity to ensure that the taxpayer is notified before control is effected, the tax administration is not always required to send prior notice of verification and the taxpayer charter to the taxpayer especially where, the tax administration is intended to correct minor errors on the declaration made by the taxpayer. However, notification of taxpayers before verification is highly recommended as it occupies the center position to balance the weight of the tax administration and taxpayer's on matters of tax reforms. Hierarchical power (HP) has a dual domain. That is, *ratione personae* and *ratione materiae*. The *ratione personae* domain simply means that HP is exercised on the persons who are found within an administration. In effect, the administrative personnel can be grouped into two categories. To the hierarchical superiors at the head of the administration and the subordinates on the other hand who are found at the base of the administrative ladder. So, to say that there is HP on persons simply means that the person who is superior in hierarchy can take a decision that binds the subordinate. This explains why in tax matters especially in the domain of

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<sup>37</sup> Njie (R.N), op.cit.

<sup>38</sup> International standards set by International Association of Assessing Officers and represent a consensus in the assessing profession, which have been adopted by the executive board of International Association of Assessing Officers.

<sup>39</sup> Ibid

<sup>40</sup> Ibid

litigations, all appeals from the Regional Taxation Centre Head, the Director in charge of Large Tax Unit or the Director General of Taxation goes to the Minister of Finance whose decision override theirs.<sup>41</sup> HP is therefore manifested in various ways strictly on personal rank. Taking just the examples of the POR and the PM, we discover that the former (POR) exercises HP on the latter (PM) since he has the legal power to appoint or dismiss the PM which can be done by way of decree containing the name of the particular individual to be appointed or dismissed as the case may be. All the litany of administrative measures that are aimed at affecting the personal situation of a subordinate only result in consecrating the exercise of HP, and for purposes of emphasis, these measures are called disciplinary measures.

Hierarchical power equally has a *ratione materiae* dimension from the moment when its putting in place by the superior in hierarchy affects the actions of the subordinate. Here, the actions of the superior are likely to affect the actions of the subordinate. For example, when the superior gives orders or instructions for the subordinate to do or not to do a particular thing, he (the superior) has in other words exercised hierarchical control over the subordinate. Even when the subordinate has already carried out the acts, the superior is legally permitted to reform or reshape these actions in conformity with the provisions define by the law. This was the situation in the case of Amougo Belinga where a notice on a third party notice was served on him for the collection of his due taxes and blockage of his bank accounts issued by the Director in charge of large enterprises was suspended thereafter by a decision of the Minister of Finance. From the upstream to the downstream or again from every point of view, the hierarchical subordinate can orientate and re-orientates the actions of the subordinate.

### **Conditions to exercise the right of control**

Though the GTC stated that any tax authority carrying out the duty of tax control must be sworn and at least with the level of tax inspector, Any tax authority in charge of such duties must do so by fulfilling certain conditions that is he or she must forward to the taxpayer by registered mail or direct delivery with acknowledgement of receipt or mail delivery register, at least 15(fifteen)days formerly was 8(eight)days prior to the date fixed for its first operation,<sup>42</sup> an audit notice informing him of possibilities of hiring any consultant of his choice to assist him<sup>43</sup>. This must be indicated in the audit notice under pain of such notice being null and void.<sup>44</sup> If in case of any postponement by the tax authority, he shall compulsorily forward to the tax payer a corrective notice. The taxpayer may also request the postponement of the audit through a writing application 15(fifteen) days following reception of the notice. Such postponement must be expressly accepted by the tax authority within 15(fifteen) days failure of which will be considered acceptance.<sup>45</sup> The tax authority before control must present to the taxpayer their National Identity Cards, their professional cards and a copy of the notice of verification and other related documents to testify their identity.<sup>46</sup>

The exercise of this power of control is done under two conditions. The first condition requires that the power should be exercised *ex officio* (as of right) between the superior and the subordinate, which still boils down to the fact that the superior co-exercise this power on the person (eg by appointing him) as well as on his actions (by giving him instructions) of the subordinate without necessarily having to show the texts or laws that give him such powers over the subordinate. The second condition imposes what we call hierarchical obedience. In other words, the exercise of hierarchical power imposes on the subordinate the obligation to respect the

<sup>41</sup> Section M118 of the GTC

<sup>42</sup> Kutnjem (H.M), op.cit, p 55.

<sup>43</sup> Ibid.

<sup>44</sup> GTC Section, M.13.

<sup>45</sup> Ibid.

<sup>46</sup> Njie (R.N). Op.cit. pg.61.

instructions of the hierarchical superior. This principle of obedience is not however straight jacketed (right) as there are some exceptions. In a judgment passed on December 10th 1944 in affair Langner, the French Conseil d'Etat said that "the subordinate has the duty to disobey when the order given is manifestly illegal and is of such nature as to compromise general interest" Cameroonian law has retaken this exception of disobedience of hierarchy.<sup>47</sup> That article provides that "the civil servant has the duty to disobey an order which is manifestly illegal and is of such nature as to seriously compromise general interest".

The control of council taxes is carried out by the competent services of the municipality.<sup>48</sup> Council agents shall expressly be mandated and provided with a mission not issued by the competent authority for their control of council levies from taxpayers to be valid.<sup>49</sup> Some control operations may be performed jointly by State and Council services on the basis of concerted schedule.

### Verifications

With regards to the GTC, before verification is done the tax authority must forward to the taxpayer by registered mail or direct delivery with acknowledgement of receipt or mail delivery register, at least 15(fifteen)days formally 8(eight)days prior to the date fixed for its first operation, an audit notice informing him of the possibilities of hiring a consultant of his choice to assist him.<sup>50</sup> This verification may take place at the premises of the taxpayers company's headquarters or his principal place of business (spot checks), On-the-spot verification is for the administration to move to the taxpayer's premises for inspection which may not exceed three(3) months but if not convenient the taxpayer may request in writing that the verifier continues the process at the tax authority's premises (desk checks), tax audit is a document base control, desk audit is therefore the common law tax audit. In this situation the supervisory officers review the document or taxpayers declaration at the premises of the tax authority. The verifier if necessary may request in writing from the taxpayer any information, justification or clarification relating to the declaration made and documents filed. Failing to respond within thirty (30) days of receipt of the request, the taxpayer is automatically taxed.<sup>51</sup> The verification may also be done at the taxpayers accountant office if so request by the taxpayer.<sup>52</sup>

The main reason for control is verification which could mean to confirm, authentication of the veracity, or problem as the situation may be, this may be verification of declaration made, documents of the taxpayers in case of doubt or to be sure of their tax liabilities.<sup>53</sup> See the case of syndicat des aconiers c/ etat du cameroun (minfi).<sup>54</sup> We should note that, verification is based on dialogue between the two parties. The duration of verification may not exceed 3(three) months in case of verification of accounts and 1(one) year in case of verification of the situation of the taxpayer.<sup>55</sup>

### Verification process

The taxpayer has to present the company and its activities to the verifier and make him understand how the activities are been carryout in the company. In this case if the tax authority is convince with the sincerity and the validity of the taxpayer declaration after collection information and carrying out surveys on the declaration submitted to him by the taxpayer, it shall give notice of

<sup>47</sup> Article 39(2) of Decree No. 199/2000 of 7 October 2000 regulating the general status of the public service of the state.

<sup>48</sup> Section C 132(2) of the GTC.

<sup>49</sup> Section C 134 of the GTC.

<sup>50</sup> GTC Section, M.13.

<sup>51</sup> Gatsi (E.T) and Kentsa (E), Op.cit, p83.

<sup>52</sup> Ibid.

<sup>53</sup> Kutnjem (H.M), Op.cit pg.55.

<sup>54</sup> Judgment No 144/2008/CA/CS du 19 Novembre 2008.

assessment and the tax payer can then pay his tax dues. The verifier can question the taxpayer or his accountant in situation of oral debate or may request a written clarifications or justification relating to the verification. The taxpayer must respond within 30 (thirty) days from the date of the reception of the filing failure of which may be subject to arbitrary assessment following the procedures laid down by the GTC of Cameroon.<sup>56</sup> The duty to clarify and justify when demanded has clearly been stated in the GTC when it says the authority may make a written request to tax taxpayers to furnish all information, justification concerning returns filed and deeds submitted, including those for income category which they are not bound to keep accounts.

The taxpayer must notify the competent tax authority in case of any modification or change of business and this must be done within the dateline of 15(fifteen) days. When the taxpayer complies with his duty of filling their returns, it will be left with tax authorities to assess the taxpayer base on his declaration the taxpayer shall be bound to produce to the authority, all mandatory accountings and records supplemented, where necessary by the accounting items applicable to the nature of the activity undertaking, in order to establish the genuineness of the information mentioned in the return.

### **Ex-officio adjustment procedure**

Ex officio is a form of sanction which occurs in the following circumstances: Absence of declaration or late declaration, refusal to reply to requests for clarification or justification, failure to hold or presentation of all or part of the account, rejection of accounts considered irregular or non-evidential, opposition to tax audit.

This procedure is a unilateral act since no possibility of reaction is offer to the taxpayer subject to ex officio taxation. The basis or the elements used for the calculation of the arbitrarily fixed taxes are directly brought to the attention of the taxpayer by notification of adjustment which specifies the methods of their determination. The charges concerned are immediately recovered, although the notice of recovery must state that the taxpayer retains the right to submit a contentious claim. In this case, the burden of proof is on the taxpayer because it is up to him to show that his charges are either exaggerated or unfounded.

### **Procedure for repression of the abuse of the law**

This refers to the fact that the taxpayer resort to legal acts or contract seemingly legal to conceal all or part of the taxable matter with the intention of evading taxes. Abuse of law is not opposable to the tax authority. The tax procedure manual stated that, any transaction concluded in the form of any contract or legal act concealing a realization or transfer of profit or income made directly or through an intermediary shall not be binding on the tax administration, which has the right to restore the true character of the operation and to determine accordingly the basis of the corporation tax or the personal income tax.<sup>57</sup> The administration is therefore entitled to effect an adjustment of the tax bases. The taxpayer may, in response, submit a contentious claim before the judge, leaving him to prove the error of the tax authority.<sup>58</sup>

### **Limitations to tax audit**

There are three legal procedures which allow the taxpayer to mitigate the effect of the recovery; the prescription of the power of recovery, compensation and guarantee against the change of the administrative doctrine.

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<sup>56</sup> GTC (2017), op.cit. section M.29.

<sup>57</sup> Article M33

<sup>58</sup> Gatsi (E.T) and Kentsa (E), Op.Cit, p,88

### **Prescription of the power of recovery of the administration**

The annuality of tax law is insufficient as it is materially impossible for the auditors to verify the declaration made by all the taxpayers every year. This is why the tax authorities are granted a so-called resumption or repetition period to remedy the omissions, errors or inadequacies in the tax operations. This period is not too long however because of legal certainty, it may take over time. This requirement is organized under the Tax Procedure Manual which states that; “The total or partial omissions noticed in the basis of assessment errors maybe corrected by the tax authority up to the end of the fourth year following that under which the tax fell due”.<sup>59</sup>

The prescription can be interrupted by the notice of adjustment, the declaration or notification of a report or by any act of recognition of the tax by the taxpayer. The interruption has the effect of restating the prescription time.

### **Benefit of the compensation**

Taxpayers subject to simultaneous verification of VAT, personal income tax or income tax may benefit from reductions of tax surcharges (additional tax) for transactions carried out during the course of a given exercise. For this, they must make the express request and prior to the establishment of taxation.

### **Arbitrary Assessment**

The bases of assessment may be determined arbitrarily by the tax authority under the conditions provided. This method of assessment is applied by tax administration on tax payers who fail to file their returns within the prescribe dateline or those who refused tax control and also those who refused to justify their declaration before the tax administration. This unilateral procedure is used as a sanction which permits the tax administration to calculate the taxes from any means or as they deem fit. In this situation, a notice is given to the taxpayer who has the latitude to challenge the assessment if he feels that it is exaggerated or he may just go ahead and pay.

Failure to file a return giving rise to arbitrary assessment shall entail the loss of the right to deduction and to VAT credit relating to a previous period. A fixed fine that may go up to 5,000,000 (five million francs) CFA shall be applied to any person who gives false information attempts to avoid or object to the right to information or notice to third party holder. A fine of 100,000 (one hundred thousands) francs per day of delay beyond the time-limit indicated in the application, shall be applicable to any attempt to postponed execution of the right to information. The same fine, as from the date of reception of the notice to the third party holder shall be applied in case of delaying tactics with intent to object the execution of the notice<sup>60</sup> non-compliance with the rules laid down may entail forfeiture of the right to operate the prohibition to bid for public contracts and prohibition to import. Furthermore, it may entail publication in the Official Gazette or public notice of the offender’s name<sup>61</sup>.

### **Obligation to provide information**

#### **Access to books and records**

Taxpayer has to give access to books and records upon a request of the authorized officer. Taxpayer must provide Information demanded in writing by the Tax Administration (TA) within the time prescribed for by the law. Exception is when the taxpayer presents sufficient proof for difficulties faced to prepare the information.

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<sup>59</sup> Ibid

<sup>60</sup> Ibid, Section M. 104.

<sup>61</sup> Ibid Section M.1o5



### **Information from third parties**

All government bodies including all quasi-government agencies have to provide information to the Tax Administration (TA) upon written request, Have to provide access to original documents without removing them outside their premises; Providing information concerning a judicial procedure requires written permission from Prosecutor General; Third parties must answer to written questions from the Tax Administration (TA) within the time limit, Prosecutor's permission is required to obtain information from persons bound by professional secrecy; The Tax Administration's written request to Prosecutor has to provide: The name, address, and activity of the taxpayer; The name, address, and activity of the person bound by professional secrecy; The serious indications of fraud the Tax Administration (TA) holds against the taxpayer; The reasons why the Tax Administration (TA) wants to obtain information. The Prosecutor has to respond to the Tax Administration's request within 7 working days. People or Institutions bound by professional secrecy are also obliged to give information concerning taxpayers without any condition. However, the information must only be requested strictly in cases of audit and investigation. Previously: people bound by the professional secrecy could only furnish the information after seeking permission from the prosecution authority.

### **Entrance to premises for search and seizure**

The authorized officer may without written notice, visit and enter into promises of the taxpayer or any other person in search of tax information about the Taxpayer.<sup>62</sup> In such case, the authorized officer may, if he considers it necessary search and seize objects or documents related to the business activities of the taxpayer. An Authorized officer is allowed to enter the taxpayer's premises or private buildings that are business related from 7:00 a.m. to 6:00 p.m. The authorized officer to access private dwellings or other premises, the Tax Administration (TA) have to obtain a search warrant from the Prosecutor. A copy of the warrant must be given to the taxpayer during the search; The Tax Administration (TA) may seek assistance from the police.

### **The lengthy procedures for tax declaration process**

From the above analyses, it can be recorded that the procedures for tax declaration are quite lengthy and sometimes wastage of time and money costly especially with the limited time prescription coupled with limited tax personnel who can handle tax files adequately. It is submitted that any natural person or corporate body liable as a statutory taxpayers to payment of tax duty or levy or an installment thereof or designated to effect deduction at source by virtue of the laws and regulation shall be bound to file returns using official forms supplied by Cameroonian tax authorities along the mandatory annex documents within the deadlines prescribed by the law however, enterprises under the jurisdiction of a specialized management unit shall be bound to file returns and statistics of hard and soft format.

From the provisions of the code, it is clear that statutory tax payers can only effect declaration on special official forms supplied by the Cameroonian tax authorities prepared. Looking at this from the perspective of contract, taxpayers will have no option than to furnish the tax administration with the required information as demanded by the form, it therefore becomes a contract of adhesion necessitating the protection of the weaker party. That is the taxpayer from the cumbersome nature of tax declaration through simplification. The above will discourage the taxpayers in involving in that cumbersome nature of tax declaration which will affect tax administrators in effecting their duties because they will need to run behind taxpayers for them to declare their taxes.

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<sup>62</sup> GTC, Section. M.103

### **E-tax compliance and cost (Promoting fiscal compliance)**

Since small enterprises are not involved in the significant fraudulent activities mentioned above, their tax potential is generally weak, and the main objective of turning them into taxpayers is to develop their sense of civic responsibility. The promotion of fiscal compliance among small economic agents implies that they adhere to the tax system, a situation which can be realized only if the system is perceived as equitable. The failure to generalize the application of taxes and the existence of numerous exemptions and waiver regimes constitute serious obstacles to this adhesion, and contribute to the expanding informal sector. Another decisive factor in the unwillingness to pay taxes is the inadequate information taxpayers receive regarding the use to which their tax contributions are put.

The government should try to make the e-tax system to be cost effective. Even though the results of the relationship between the two variables were insignificant, it was still positive all the same. So, if the cost that the taxpayer's will incurs is very little compared to the manual system, this will attract more tax payers to pay their taxes.<sup>63</sup> The tax authorities (government) should try to make the system available and can be accessed by all Cameroonians. Based on our findings, it shows that if the service is made available to all tax payers both in Cameroon and abroad, and these tax payers know that the site is secure and they trust its reliability, then tax payers will be willing to use the e-tax system to meet up with their tax obligations. Effort expectations have a direct positive and significant effect on tax compliance that is if the tax payers anticipate that the site will be too difficult and sophisticated to use, they will not be willing to adopt and use it.<sup>64</sup>

The government should make the system not too cumbersome and there should be continues upgrade to make the site easy to use. The level of tax compliance can be high if the control measures put in place by the government achieve its expected outcome. Governments of many countries worldwide and Africa in particular are recognizing the need for a better tax collection and administration system which can reduce the level of tax evasion. One of such means is by using the electronic tax system where taxpayers declare and pay their taxes without moving around. Also, tax payers will be most likely to meet their tax obligation voluntarily if there is a good and clear tax system and if they know that the government will put the money into the intended use. Tax digitalization can positively influence the level of tax compliance but for that to happen, the system must be very effective and convenient. Therefore, for tax digitalization to lead to tax compliance, there are many factors which comes into play. But for this study, we focus on the cost involved in using the online tax platform, the accessibility and reliability, effort expectations and behavioral intentions which acts as a mediating variable. Finally, behavioral intentions partially mediate the relationship between tax digitalization and tax compliance relationship; the government should be keen on this because it shows that the behavior of tax payers has a partial role to play on tax compliance. The government should bring in laws that will shape and make the tax payers to have a positive behavior (attitude) toward the e-tax system.

The gap created by low tax compliance is enormous. Since the tax revenue desirable by government to meet social and developmental need of citizenry depends largely on the degree of tax compliance by taxpayers, the government should adopt every workable strategy to ensure voluntary compliance or otherwise its time it uses the big arms of the law inherent in penalty to compel compliance.

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<sup>63</sup> Forzeh (M.F), Chi (N.W). An Assessment of Tax Digitalization and Tax Compliance Relationship in Cameroon: The Mediating Role of Behavioral Intentions. *Journal of Finance and Accounting*. Vol. 10, No. 1, 2022, pp. 30-43.

<sup>64</sup> Ibid.

### **Proper self-assessment**

Constant tax audit will assist to detect fraudulent, incorrect and or underreporting of taxable incomes is recommended. Although it would not be feasible to conduct tax audit on all tax payers, the fear of a regular tax audit instills fear in tax defaulters

We recommend that because of the nature of self-assessment, some pre-requisite conditions should be put in place for the successful operation. This include; an enlightened tax-paying public, clear and precise legal provisions and official rules and regulations on relevant tax and very effective tax compliance measures that may include good tax returns examinations; regular field audit, special tax investigation and easily available and functional litigation process. Where these conditions do not obtain, self-assessment can constitute a serious problem to adequate revenue generation since no taxpayer is oblige to do so arrange his tax affairs in such a way as to make him pay more than is absolutely necessary.