

# Tax Fraud as a Mode of Survival at the Directorate General of Taxes (DGI) in Lubumbashi

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**Abstract:** *Paying taxes and duties is a duty that the constitution of the Democratic Republic of Congo of February 18, 2006 as amended by law n°11/002 of January 20, 2011, assigns to all Congolese. Tax is a charge that men do not like, yet it is a main source of revenue for the public treasury to cover public expenses. But the economic and managerial reasons often lead taxpayers and tax officials to adopt various behaviors that lead them to often fall into cases of tax evasion, tax evasion, money laundering, etc. this is why in this study, we have chosen to analyze three scientific articles) those by Kawit Yav, Moustapha Amadi & Mbale Kizekele published in 2018 and 2020 and had the title: Tax Fraud and Phenomenon of "Contribuable Wangu" as a System and Tax system Disputes Perceived as a Psychic Suffering from Formal to Pragmatism Tax, "Invisible" Phenomenon: A Resilience at Lubumbashi Taxes Center. To achieve this, we applied the exegetical method materialized by the documentary technique supplemented by interviews and observations in the production of field data. Then, we stripped this information by means of content analysis. Finally, data processing was made possible through thematic analysis. In light of the above, we have obtained the results that the practices put in place by taxpayers and tax officials aim to reduce the rigor of the law in order to meet personal needs. However, in the event that there is a divergence of interest, the actors come into conflict. This is what justifies the reason for this study in private and judicial law, because we shed light on the conflicts between taxpayers and tax officials.*

**Keywords:** taxation, parafiscality, tax, tax and taxpayer

## 1. Introduction

Tax evasion is a theme that interests several disciplines (sociology, psychology, penology, economics, philosophy, criminology, tax, etc.), because it is a polymorphic, multidimensional human fact and a real social problem. Depending on the types of taxes imposed on economic operators, this fraud also takes specific forms. This is why we looked at the analysis of the three scientific articles produced in 2018 and 2020 by Kawit Yav, Moustapha Amadi & Mbale Kizekele. Empirically, this work is based on the description of the practices and the sense that the participants have about tax evasion. Referring to the research methodology in social sciences as proposed by Quivy and Campenhout (2006), to address the subject of this study we asked ourselves the following question: "What should be done to register tax evasion in law? private and judicial? » This main question is supported by another secondary one that we have formulated as follows: « What is the role of tax evasion at the Directorate General of Taxes in Lubumbashi?

By way of provisional answers to the questions that constitute the common thread of our scientific work, we believe that in order to include tax evasion in the field of private and judicial law, it would be desirable to describe the types of fraud that exist in this tax environment. This is why we started by analyzing the articles of our predecessors who present the practices, issues, meaning and representations of tax fraud within the Directorate General of Taxes in Lubumbashi.

Tax evasion is set up as a norm in and around the Directorate General of Taxes in Lubumbashi because as far as tax officials are concerned, according to some of them, it is a means of survival, for others it allows getting organized is an organizational means. Finally for a last category, tax

evasion makes it possible to have a financial added value. Economic operators meanwhile tax evasion maximizes revenue. We believe that putting these elements together, we find that there is a form of collaboration when there is a convergence of interests, but otherwise it is a situation of conflict between actors and which is often not brought to the criminal justice light for fear of fallout from either party.

## 2. Circumscription of Concepts

This perspective leads us to define some concepts that are used in this work, in order to allow lucid understanding. As the terms are often polysemic, it is up to us to specify under which aspect we approach the keywords in this research. In this study, it is: Taxation, parafiscality, Tax, tax and the taxpayer,

### 2.1 Taxation and parafiscality

According to the Dictionary of the Economy (2007:573), taxation and parafiscality together constitute compulsory levies, taxation is made up of taxes while parafiscality is made up of social security contributions. Taxation must be understood as a political and social fact, as a human thing. It is in fact so intimately linked to the evolution of societies that the citizen of the modern State considers taxation as a natural institution, however unpleasant it may be.

Taxation is defined as the set of measures relating to the collection, by a government, of contributions from the members of society that are necessary for the exercise of its power and its mandates. We live together in a "community", which implies that we "pool" certain resources (money, for example) to provide a service that will benefit everyone. This pooling is taxation. We give our governments the mandate to administer this tax system in accordance with

our common priorities and directions, or, in other words, to administer for the common good.

Taxation is therefore the set of processes by means of which the State collects tax. The tax revenues of the Democratic Republic of Congo are multiple. We find, of course, the taxes that are specific to it, the fees for licenses and permits, the revenues of Crown corporations and government investments.

According to Melh, L. and Beltrame, P. (1984) quoted by Kola Gonze (1994), parafiscality is the set of mandatory taxes and fees that are collected for the benefit of public or private persons other than the State, the local authorities or public establishments authorized to collect taxes. The parafiscal tax is collected in an economic and social interest for the benefit of a legal entity under private law other than the State, local authorities and public establishments. It is similar to a tax levy in that it does not necessarily correspond to a service rendered and is mandatory. But unlike taxes and other taxes, it is often instituted for the benefit of private organizations and through regulations (Kola, 1994).

## 2.2 Tax and duty

For Gaston Peter, quoted by Kola Gonze (1994), "Tax is a pecuniary benefit required from natural or legal persons by means of authority, definitively and without consideration, with a view to covering public expenses and allowing the State to carry out certain interventions in the economic and social field".

Tax is a contribution paid to the State out of salaries for individuals and out of income and profits for companies. The tax systems in the Democratic Republic of Congo are progressive, that is to say that the amount paid is proportional to the level of income of the individual or the company. The higher your income, the more tax you have to pay.

Tax has three types of essential functions, which are: financial, economic and social.

- The financial function: this is the most traditional function of taxation. The tax must be used to mobilize the financial resources necessary to cover the expenses of the State and local authorities. In particular, the operating costs of public services, salaries of civil servants, costs related to the very existence of the State and the protection of the Congolese nation (Police, Health, Education, National Defense).
- The economic function allows the development of the Congolese nation, which is supposed to ensure the general interest, in other words it ensures a function of stabilization or regulation which serves to fight against economic imbalances (in particular underemployment), which does not can be corrected by the market alone. The taxlevywill be used as a means of regulation and economic recovery.
- The social function: this function is not negligible even if it is not very perceptible. This social role of the tax requires on the one hand that it is taken into account the contributory capacity of each citizen (notion of equity)

and on the other hand that starting from the products of the Tax, the State proceeds to a redistribution of resources towards the most disadvantaged strata (through scholarships, family allowances, social assistance, etc.).

It should be noted that the tax, also called contribution or tax differs from the tax in the strict sense. The tax in the strict sense is not a tax even though it comes close to it in various aspects. While the tax is levied without the taxpayer being offered a specific counterpart, the tax, on the other hand, remunerates a service rendered or at least made available to the taxpayer.

Indeed, according to Larousse (1964), "the tax is due without any particular service being rendered to the taxpayer. On the contrary, the tax itself is due only in exchange for a service for which it is the price. The tax is payable only by users of the service; the tax is due by all those who belong to a given company; the tax must correspond to the value of the service rendered; the tax must be of an amount corresponding to the contributory capacity of the taxpayer; the Treasury only has a privilege to guarantee the payment of taxes; debts relating to taxes are not privileged..."

## 2.3 Liable, Taxpayer and liable

The person liable is the person who is subject to tax and who must pay it. The taxpayeris the natural or legal person who, under the terms of the law, is required to pay into the treasury account the sums due in respect of taxes. In this case we call it the legal debtor unlike the real common debtor called the taxpayer. Subject: Synonym of liable. In practice, term generally used to designate the taxpayer personally liable for the payment of tax, because of his activity or the transactions he carries out, for example.

## 2.4 Study theories

### 2.4.1. Social networks as the first angle of approach according to Lemieux (1991)

The process of the tax audit of the annual accounts of companies concerns state tax actors and economic operators through their agents (accountants, lawyers, etc.). The grid of social networks according to Lemieux's perspective is essential because this control carried out by tax officials takes place in an economic universe in which economic operators work in a network (importers, customs declarants, suppliers of goods and services, management board, representatives of economic operators and finally tax auditors).

Lemieux (1999:1) thus shows that in social structures, social networks are structured around three axes:

- The dimension of belonging, which "refers, between the participants, to the bonds of identification, differentiation or indifference";
- The appropriation dimension, which refers to the types of relationships between the actors and;
- The governance dimension, which supports the control mechanisms towards each other.

### 2.4.2. Theoretical approach to strategic analysis

Proposed by Crozier and Friedberg quoted by Digneffe (1990: 87), strategic analysis is a theory whose central object is power relations within organizations and favoring the strategic choices of the social actor. This is a conception that can help to understand how the relative autonomy of the actor works.

According to the grid of the strategic analysis, the actor always has a margin of freedom which allows him at the same time to pose strategies for personal ends, but also to fill the concrete insufficiencies of rules which cannot concretely guarantee everything, foresee everything (Crozier and Friedberg, 1977: 85).

For Crozier, "power is not an attribute [of actors] but a relationship" (Crozier and Friedberg, 1977: 65). Power is therefore, according to these authors, a reciprocal but unbalanced relationship. It is a balance of power, from which one can derive more advantage than the other, but where, also, one is never completely powerless against the other.

According to Crozier and Friedberg (1977: 56), the behavior of the actor is "a behavior that always has a meaning. Behavior has two aspects: an offensive aspect: seizing opportunities to improve one's situation and a defensive aspect: maintaining and expanding one's margin of freedom, and therefore of one's ability to act. Thus, the theoretical approach of strategic analysis helped us to grasp the meaning of the behavior or better the meaning of the interactions around tax evasion within the Directorate General of Taxes in Lubumbashi. As Crozier and Friedberg (1977:69) put it, "power can be redefined as a relationship of exchange, and therefore reciprocal, but where the terms of the exchange are more favorable to one of the parties involved. It is, as previously said, the balance of power, from which one can derive more than the other, but where, also, one is never completely helpless in the face of the other".

## 3. State of the Question

To better begin our subject, it is necessary for us to make an inventory of the problem treated: these are the works that have been published in relation to our subject and how our thinking stands out. After an exploratory reading, we identified some publications that indirectly touch on our research subject:

Mbale Kizekele (2010), in his study on the phenomenon of the invisible, he demonstrates that by design, economic operators and tax officials use themselves first and often leave a third of what the taxpayer owes to the Public Treasury.

Robert Klitgaard (1988), in his book "Combating Corruption", argues that "corruption occurs when an individual unlawfully places his own interests above those of people and the ideals he committed to serve. The agent may be tempted to embezzle the tax receipts if he is persuaded that the chances of being caught are nil or, when he can set as he sees fit, the so-called "taxable" amount of the

taxpayer's income. He risks having the temptation to use his discretionary power illicitly to offer an "arreglo" if the expected envelope is comfortable and the risks minimal",

Kawit Yav, Moustapha Amadi & Mbale Kizekele (2018 & 2020), found the phenomenon "taxpayer wangu" is a system of appropriating taxpayers in order to cope with social pressure. This systemic understanding of taxpayer appropriation highlights the practices, issues, meanings of the phenomenon as well as the representations of the actors involved. These authors also studied invisible phenomena such as resilience in the face of social pressure. This phenomenon is characterized by practices such as: late filing of a tax return (monthly or annual), failure to submit the accompanying accounting documents accompanying the annual tax return, failure to file the tax return, over taxation made by auditors and/or tax assessors, over taxation at the origin of contentious claims, improvement of taxable profits by taxpayers, etc. Finally, they considered tax litigation as a mental suffering because the tax administration, which causes psychosis both in its agents and in its economic operators, can be called upon by the latter to find solutions to their problem.

These studies focused on both agents of the Tax Administration (DGI) and economic operators in Lubumbashi. But our work stands out by the fact that it is a study that is part of the institutional code, that is to say, this work is carried out with the legal glasses of private and judicial orientation. which studies conflicts between an economic operator and a tax agent. The taxpayer is thus "directed" like a "blind person" by the Tax Agent. However, the declarative system in which the tax procedure of the Democratic Republic of Congo is part places the taxpayer before his own responsibilities, to draw up the financial statements of his activities, to draw up his declaration freely and to make the payment of amounts due to the Public Treasury in respect of taxes. As a corollary, the Tax Administration reserves the right to check to ensure the sincerity and accuracy of these financial statements and this declaration.

## 4. Presentation of the Directorate General of Taxes

### 4.1 Creation and purpose

On the proposal of the Minister of Finance and Budgets, a Tax Administration endowed with administrative and financial autonomy was created on March 2, 1988. This, with the aim of adapting the name and structures of the General Directorate of Contributions with a view to the great efficiency in the mobilization of revenue responded to a concern to increase the mobilization of tax revenue.

Its administrative and financial autonomy was thus consecrated by the provision of personnel governed by its own administrative regulations, taken in accordance with the statutes of the public service, and a budgetary allocation corresponding to a portion of the assigned. This retrocession appeared in the annexed budgets of the State.

#### 4.2. Historical overview of the Directorate General of Taxes

In its current configuration, the Directorate General of Taxes (DGI) was created by Decree No. 017/203 of March 2, 2003, creating the Directorate General of Taxes, as amended and supplemented by Decree No. 04/ 099 of December 30, 2004. This text replaced Ordinance No. 88-039 of March 10, 1988, establishing the Directorate General of Contributions.

#### 4.3 Legal status of the DGI

The Directorate General of Taxes is a service under the Ministry of Finance with administrative and financial autonomy. It is placed under the direct authority of the Minister in charge of finance.

#### 4.4 Responsibilities of the DGI

The General Directorate of Taxation exercises, within the framework of the laws and regulations in force, all missions and prerogatives in tax matters.

The missions and prerogatives of the Directorate General of Taxes include in particular those concerning the basis, control, collection and litigation of taxes, duties, fees and levies of a fiscal nature.

To this end, the Directorate General of Taxes is responsible for studying and submitting to the competent authority draft laws, decrees and orders in the matter. It must be consulted for any text or agreement with tax implications or any approval of an investment project subject to an exceptional tax regime.

#### 4.5. Structure of the DGI

The Directorate General of Taxes is headed by a General Manager assisted by two Deputy General Managers, one of whom is responsible for finance and human resources issues and the other for tax reform issues. They are all appointed and, if necessary, relieved of their duties by the President of the Republic, on the proposal of the Minister in charge of finance.

In its organization, the DGI has a Central Administration, an Operational Directorate, an Urban Directorate in the city of Kinshasa, an External Services and a Provincial Directorate in each Province including the Provincial Directorate of Katanga.

As for the agents, they are recruited by competition, undergo training and are part of 3 bodies: tax inspectors, tax auditors and tax bailiffs.

### 5. Methodological device

This study is carried out thanks to the Exegetical Method which consists in the interpretation of the texts of the laws to which we will have recourse to better proceed in the development of our work. It is used in the understanding of the texts by researching the intention of the legislator and explaining his will which was at the origin of the standard.

This method is supported by the documentary technique which allows us to exploit information on tax evasion contained in various documents.

In other words, we use documentary analysis as the first means of producing field data. It is supplemented by interviews and observations which constitute additional techniques for the production of field data. Ngoie Mwenze (2020), the relevance of this triangulation generally depends on various justifications put forward by the researcher himself or based on the research question.

As far as the methodological device is concerned, we end up with content analysis allowing us to analyze and analyze the data that we collect from the various actors involved in the production of practices, issues, meanings and representations around tax evasion and the legal provisions that can contribute to the management of tax evasion.

### 6. Search Results

In the first phase, our work examines the so-called invisible practice developed in the economic environment on the one hand, and in the fiscal environment of the Provincial Tax Department, on the other hand. This practice generally brings together a tax official and an economic operator. In principle, the main role of the government is to regulate the relations between actors and operators on the determined territory called the country. The latter has, within the limits of the sovereign territory, sovereign prerogatives to deduct, unilaterally (and thus without direct apparent counterpart) from the income earned (or property held) by private third parties, a determined proportion with a view to the coverage of national common charges).

The constitution of the Democratic Republic of Congo, published in the year 2006, stipulates in its article 174, what follows: "it can be established taxes only by the law. Contributing to public charges is a duty for everyone living in the Democratic Republic of the Congo".

In the Democratic Republic of the Congo, the public services endowed with management autonomy and responsible for mobilizing public revenue (tax) for the benefit of the public treasury are respectively called the Directorate General of Taxes and the Directorate General of Customs and Excise. The first takes care of the tax inside and the second, the door tax (at the borders).

In this country, the tax system is declarative, that is to say that the calculation, the declaration and the payment of the tax are, beforehand, made by the taxpayer (the person who owes the tax) . Consequently, the value of guarantee of sincerity and authenticity granted to the tax declarations subscribed by the only taxpayers is not of blind acceptance by the services of the tax department. Driven by the constant desire to maximize tax revenue, the government has given its financial departments the power to verify the degree of sincerity and accuracy of the declarations made by the taxpayer or his taxpayer (person responsible for paying the amount due to the Public Treasury).



In this environment, there is, on the one hand, the tax official who holds the keys to conducting the control of business accounts and, on the other, the taxpayer or his agent having declared, at his discretion, the income ( or goods) taxable. These results are consistent with Crozier's theory which states that "power is not an attribute [of actors] but a relationship" (Crozier and Friedberg, 1977: 65). The consequences of these tax audit issues can be to the benefit or to the detriment of the public treasury. And the tax official can work to the detriment of his own employer, - the State - by being in contradiction with professional ethics but also with the statute of the personnel of the public services of the State and the regulations of administration. In the circles of the Provincial Directorate of Taxes in Lubumbashi, a so-called invisible phenomenon is emerging. Indeed, there are several practices which lead, in the tax environment, to the production of the so-called invisible phenomenon and which can be generated by:

- Late filing of a tax return (monthly or annual),
- Failure to submit the accompanying accounting documents accompanying the annual tax return,
- Failure to file the tax return,
- The over-impositions made by the tax auditors and or assessors, over-impositions at the origin of the contentious claims,
- Improvement of taxable profits by taxpayers, etc.

In fact, it is these latter practices that fall within the scope of our study and induce an informal reward for tax officials and at the same time an "illicit" profit for the taxpayer. These practices were retained by the fact that they are triggered following the control of taxable income, annually, control which proves to be the pillar of all tax controls operated by the tax administration. It was following the exploratory interviews that these elements were provided to us.

In the second phase, we have found that contacts between tax officials and economic operators are decisive. In some cases, some tax officials go as far as "appropriation" of certain economic operators to the detriment of public authorities. These results support the theory advocated by Crozier and Friedberg. According to the grid of the strategic analysis, the actor always has a margin of freedom which allows him at the same time to pose strategies for personal ends, but also to fill the concrete insufficiencies of rules which cannot concretely guarantee everything, foresee everything (Crozier and Friedberg, 1977: 85).

This phenomenon is called, in the tax environment in Lubumbashi "Taxpayer wangu"! This is one of the phenomena on which our study focuses. From the point of view of private and judicial law, we consider the phenomenon "Taxpayer wangu" as a crime which can oppose two actors to each other, but also as a situation-problem or a behavior-problem which deserves to be studied in this sense. that a taxpayer or an economic operator cannot be considered as a "property" or "private property" of a Tax Agent because this situation creates conflict between the actors mentioned above. The theory of strategic analysis confirms these results in these terms (Crozier and Friedberg 1977:69), "power can be redefined as a relation of exchange, therefore reciprocal, but where the terms of the exchange are more favorable to one of the parties involved. It is, as said

previously, the balance of power, from which one can derive more than the other, but where, also, one is never completely helpless against the other » Over time, this phenomenon takes on a worrying scale and persists despite the measures that the hierarchical authorities take to put an end to it because it is considered a practice aimed at reducing the revenue of the Public Treasury.

However, tax officials and taxpayers act and interact on behalf of the Congolese state and sometimes on their own behalf. This double game which sometimes results in the appropriation of taxpayers by the tax official, confronted with the weight of the family and social pressure, for fear of the unknown, the uncertain, the irrational and the very complex of his career, feels a spontaneous need: that of locking up at least one taxpayer in his reading grid, in his known. The objective is to lock the taxpayer in the grip of his mind on his decisions.

The tax officer thus imagines strategies to change this negative view of the taxpayer into a positive one and lead him to change his behavior. And, through negotiations, sometimes complex, the tax agent manages to sign a psychological contract with the taxpayer without even asking his opinion and to involve him in his extravagances. The idea is to bring the taxpayer into a situation he had not considered: serving as a cash cow. This is the very meaning of the wangu taxpayer phenomenon.

Not all tax officials involved in the "wangu taxpayer" phenomenon have the same ability to mobilize a large number of taxpayers in their areas. Likewise, not all taxpayers generate money in the same way. This state of affairs sometimes creates a certain greed, emulation between tax officials and even conflicts. Some do not hesitate to suggest to the "taxpayers" of others a commitment at a lower cost

Ultimately, we have found that the "wangu taxpayer" phenomenon has several meanings. At first, it takes on the meaning of self-management by the tax officers of the new units of the synthetic tax center. For these agents, appropriating taxpayers is another form of remuneration. For this category of agent, it is a punishment inflicted on the Congolese State because it would be badly remunerating these agents and cannot even meet their basic needs. Thus, they are paid more than the salary that would be allocated to him, but for the commanding officers it is a shortfall. As for taxpayers, it is a negotiation with the tax agent that allows them not to pay taxes as provided for by the institutions. The phenomenon "taxpayer wangu" refers to a content of several.

Finally, the third work stipulates that the procedures in tax matters are strictly interpreted. As if to say, they have an absolute or imperative character. In the eyes of tax lawyers, the practices of certain Congolese taxpayers and tax officials in Lubumbashi show that the tax wheel can also turn differently. This study calls out to us that the problems of society should not be solved solely by (formal) legal mechanisms, disregarding the practices of the actors. These practices have a double functional aspect. These results are in line with the theory of social networks because, according

to Lemieux, this control carried out by tax officials takes place in an economic universe in which economic operators work in a network.

This same economic operator to whom the tax legislator has provided mechanisms to “deliver” him from excess, exaggeration or tax terrorism avoids them by even forcing the hand of tax officials. This tax administration, which causes psychosis both in its agents and in its economic operators, can be called upon by the latter to find solutions... As an actor interconnected by certain realities, tax agents become like "doctors " economic operators to whom they have inoculated pathogenic viruses which cause diseases (tax debts) and for which they (tax officials) seek compensation (tax relief decisions). Although the results of this research may be complex from the point of view of procedural tax practitioners, they are encouraging from the point of view of economic theory (microeconomics). Thus, this study is a kind of iceberg in this tax circle, (as pointed out by Mankiw and Taylor -2013: 10- that the law also influences behavior by playing on incentives) transfers of tax revenue that the tax administration is required to perform.

Finally, this legal study carried out in situ reminds us of Leman-Langlois, (2007: 38) who underlines that “the empirical deals with what is, as ugly, ineffective, dangerous or undesirable as one can judge it personally”. This study does not escape this reality. The decisions made by the actors may seem “cold and relentless”, but from the point of view of tax revenues, they make sense.

- All these practices that we present above are punishable by the criminal law of the Democratic Republic of Congo as we can notice it in section 4 of the penal code relating to forgery committed in writings in its articles 124 to 127.
- Article 124: Forgery committed in writing with fraudulent intent or with intent to harm shall be punished by penal servitude from six months to five years and a fine of twenty-five to two thousand francs, or one of these penalties only.
- Article 125: If the forgery was committed by a civil servant or agent of the State, in the exercise of his functions, the penal servitude may be increased to ten years and the fine to five thousand francs.
- Article 126: Anyone who, with fraudulent intent or with intent to harm, has made use of a forged act or false document, will be punished as if he were the author of the forgery.
- Article 127: Any civil servant or public officer who, in the performance of his duties, has issued a false certificate, falsified a certificate, made use of a false or falsified certificate, shall be punished with penal servitude of three to five months. years and a fine of one hundred to one thousand francs, or only one of these penalties.
- False writing is the alternation of the truth in any writing whatsoever, carried out with fraudulent intent or a design to harm and likely to cause harm. The alternation of the truth can consist of:
- In the alteration of the materiality of the writing, such as a scratching, an overload or laceration, an insertion after the fact of a false clause, the abuse of a blank sing, the

affixing of a false signature, cutting out part of the text, juxtaposition and sincere, etc. ; it is fake material.

- In an alteration of the enunciations of the writing, without in its materiality, this one is falsified. Such is the case of the reducer of an act, which inserts contrary or different mentions of what the parties have declared, it is the false intellectual.

The falsification of the invoice consists of scratching, overloading or laceration, the insertion of false statements. In addition to the deduction of the amount of VAT included on the false invoice by the seller, a fine will also be applied to three times the amount of VAT included on the false invoice.

We put the access on this fact because the sentences are modulated by the criminal judge. In the event of aggravating circumstances, that is to say if the fraud was carried out either by means of purchases or sales without sales without an invoice, or false invoices or even to obtain a tax credit, the maximum penalties can be pronounced. Likewise in the event of a recurrence.

It is important to note that article 71 seems to duplicate article 74. Indeed, this last provision sanctions the case of deduction not corresponding in part or in whole to a delivery of goods or a provision of services. This case actually concerns the false invoice. However, the legislator provides another sanction in this specific case. Should we think that it is necessary to combine the two sanctions, one to repress the issuance of the false invoice and the other to repress the deduction operating in this respect? (see also the commentary to article 74).

In short, by crossing the results of the articles by Kawit Yav, Moustapha Amadi & MbaleKizekele from 2018 and 2020, it emerges without a shadow of a doubt that economic operators and tax officials use several practices to reduce the rigor of the law criminal law and the Congolese legislator has only provided for sanctions for offenses or conflicts between one of the actors the Congolese State. However, these practices also oppose individuals to each other, that is to say taxpayers and tax officials, it is the application of private and judicial law.

## 7. Closing

In conclusion, three scientific articles respectively entitled: Tax Fraud and Phenomenon of “Contribuable Wangu” as a System and Tax system Disputes Perceived as a Psychic Suffering from Formal to Pragmatism Tax (2018) and "Invisible" Phenomenon: A Resilience at Lubumbashi Taxes Center (2020) we have identified the following practices:

- The appropriation of the taxpayers which makes it possible on the one hand to meet the existential, material and organizational needs and on the other hand it makes it possible to maximize the profits. This practice linked to the appropriation of taxpayers certainly constitutes a deviant behavior compared to the standards which govern the career staff of the Congolese State public services.
- The invisibles which consist in the reduction of taxable profits by taxpayers. This reduction, which falls within

the scope of our research, induces an informal reward for tax officials and taxpayers' representatives and at the same time makes it possible to generate an "illicit" profit for the taxpayer". This practice was adopted because it is triggered following the control of taxable income, annually, control which is the pillar of all tax controls operated by the tax administration.

- The management of disputes at the level of the tax administration, causes psychosis both among its agents and among its economic operators. The practice of reopening tax disputes in tax litigation is done by the Tax Department at the request of some claimants and in other cases by tax officials. This practice makes it possible to find a solution to strong social pressures.

These aroused practices are set up as standards in the tax environment and puts permanent interaction between economic operators and tax officials, although the decree-law on the code of conduct for public officials of the State (2002: 46), by its articles 16, 17 and 18 relating to the duties of the public official of the State (standards) prohibits and punishes these connections with the taxpayers.

By reading this work which shows the practices which debase the development of the Democratic Republic of Congo, therefore it is desirable that the legislator will have tax reforms in DR Congo while alluding to the scientific articles carried out by Kawit Yav, Moustapha Amadi & Mbale Kizekele of 2018 and 2020 by integrating our articles there, which will allow us to manage the other dimensions of tax fraud without forgetting the notions of conflicts which oppose the actors involved in this so-called fraud, in other words to register the notions of tax fraud in the field private and judicial law.

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