Compulsory Enforcement Procedures in Tax Collection: Seizure and Sale by Public Auction

Elias Ouadah
Associate Professor of Law . Laboratory of investment and development Durable. University of Oran2 Mohamed Ben Ahmed, Algeria. Email: ouadah.elias@univ-oran2.dz
Ouahiba HAMDADAOU
Laboratory of investment and development Durable. University of Oran 2 Mohamed Ben Ahmed, Algeria .Email: ouadah.ouahiba2023@gmail.com

Soumission : 12/11/2025 Acceptation : 20/07/2026 Publication :31/07/2026

Abstract
This study examines the compulsory enforcement procedures used by the tax administration to recover tax debts after amicable collection efforts have failed, with particular emphasis on seizure and sale by public auction as the principal means of enforcement. It aims to clarify the legal framework governing these procedures under Algerian legislation, the conditions for their application, and the safeguards afforded to taxpayers, thereby achieving a balance between protecting taxpayers' rights and ensuring the recovery of amounts owed to the Public Treasury. The study also reviews the stages of compulsory enforcement, from the enforceable instrument and the demand for payment to seizure and sale by public auction, while explaining the available avenues of challenge and the judicial oversight of collection procedures. It adopts a comparative approach by examining French law and the case law of the French Council of State to identify similarities and differences and to formulate recommendations that may contribute to the development of Algeria's compulsory tax enforcement system and enhance its effectiveness within a framework that respects the principle of legality and taxpayers' rights.
Keywords: compulsory enforcement; tax administration; recovery of tax debts; sale by public auction.

Introduction

Legal scholarship defines a tax as a compulsory financial levy imposed on taxpayers according to their financial capacity by a public authority, on a definitive basis and without direct consideration, for the purpose of achieving public objectives.[1]

Taxpayers are legally required to pay the taxes imposed by the legislature. Such taxes are embodied in administrative decisions endowed with the privilege of direct enforcement, and challenges to those decisions do not suspend enforcement. Once the enforceable instrument or payment notice has been served, the tax becomes due and payable. If the taxpayer fails to pay, the tax administration may initiate compulsory enforcement procedures without recourse to the courts, without prejudice to criminal proceedings where appropriate. The Public Treasury also enjoys a statutory preferential lien for the collection of direct taxes

---

[1] Yelles Chaouche Bachir, *Public Finance Law and Its Applications in Algerian Law* (Office of University Publications, 2013), 23.

and similar levies throughout the collection period. This lien extends to movable property and furnishings belonging to the debtor, wherever they may be found, and to equipment used in operating a commercial enterprise when that equipment is not subject to a contractual security interest, even if it is deemed immovable property under Article 683 of the Civil Code.[2] [3]

The Public Treasury holds a statutory mortgage over all immovable property belonging to tax debtors without being required to register it with the Land Registry. This mortgage covers various taxes and tax penalties and automatically takes priority from the date the tax assessment authorities prepare the collection roll.[4]

Compulsory collection procedures are not limited to the taxpayer but also extend to third parties designated by the legislature to safeguard the rights of the Public Treasury and to prevent the concealment of assets and the evasion of tax debt. The legislature has therefore established joint and several liability in certain cases, including that of the transferee of a business undertaking, the taxpayer's heirs, the owner of commercial premises and their operator, and public institutions and bodies benefiting from concessions over state-owned property together with the operators or occupants of that property, with respect to direct taxes arising from its operation.[5] [6]

Joint and several liability also extends to spouses and their minor children for taxes on aggregate income derived from property and from income acquired after marriage. The tax administration may initiate collection procedures, including seizure and sale, against property purchased by the other spouse after marriage, based on the presumption that it was acquired with funds belonging to the spouse liable for the tax, unless the spouse concerned proves otherwise.[7] [8]

Notwithstanding the foregoing measures, among the most significant privileges granted to the tax collector and regulated by the Tax Procedures Code are temporary closure and sale by public auction, as expressly provided in Article 145 of the Tax Procedures Code.[9]

The tax collector responsible for collection resorts to these procedures to safeguard the rights of the Public Treasury. These procedures differ, in both their conditions and their application, from the enforcement procedures provided for in the Code of Civil and Administrative Procedure. They constitute a privilege granted to the tax administration

[2] See Articles 143–52 of the Tax Procedures Code and Articles 303–8 of the Direct Taxes and Similar Taxes Code.

[3] Article 380 of the Direct Taxes and Similar Taxes Code.

[4] Article 388 of the Direct Taxes and Similar Taxes Code.

[5] Article 373 of the Direct Taxes and Similar Taxes Code.

[6] See Article 374 of the Direct Taxes and Similar Taxes Code.

[7] See Articles 376 and 377 of the Direct Taxes and Similar Taxes Code.

[8] Where necessary, collection procedures may also be initiated against property purchased by the spouses' minor children, subject to the conditions set forth in Articles 376 and 377.

[9] Article 145 of the Tax Procedures Code provides: "Enforcement proceedings shall be carried out by legally authorized administrative officials or judicial officers. Where appropriate, executory seizure may also be entrusted to judicial officers. Enforcement proceedings shall be conducted by virtue of the enforceable effect conferred on the rolls by the minister responsible for finance. Enforcement measures consist of the temporary closure of business premises, seizure, and sale."

against taxpayers who attempt to evade payment of taxes because they require neither authorization from the president of the court nor the initiation of judicial proceedings, thereby making them more expeditious and effective in recovering tax debts.[10] This raises the questions of how the legislature has regulated this procedure, what conditions govern its use for the recovery of tax debts, and what stages it entails.

Section One: Content of These Measures and Conditions for Their Application

Compulsory enforcement procedures apply to all debts owed to the tax administration in the form of taxes and levies, provided that they are based on a collection roll vested with enforceable effect by the minister responsible for finance or by a person legally authorized by that minister. These procedures are directed primarily against the taxpayer's business undertaking through its temporary closure, the sale of its tangible assets, or the sale of the business undertaking in its entirety by public auction or private sale. They also extend to the sale of movable property belonging to the taxpayer, in accordance with the conditions and rules established by law. The procedures governing the implementation of these enforcement measures are characterized by simplicity and clarity, and their principal requirements may be summarized as follows:

A formal tax notice requiring the taxpayer to pay the tax must be issued, and the taxpayer must have refused to pay within the legally prescribed period, pursuant to Article 144 of the Tax Procedures Code.[11]

Before a temporary closure or seizure may be initiated, a formal payment order (*commandement*) must be served on the taxpayer, under penalty of nullity of the proceedings. The tax administration may issue such an order beginning on the day following the date on which the tax becomes due. Enforcement procedures must also be carried out by the competent administrative officials, although a judicial officer may exceptionally be entrusted with their execution. Competence is established by the notice, which must include the first and last names and the signature of the issuing official. Competence is a matter of public policy, and the court must raise any violation sua sponte.

Section Two: Seizure and Sale Procedures

1. Temporary Closure[12]

Neither the Code of Civil and Administrative Procedure nor the Commercial Code provides for the temporary closure of a business undertaking. Both are limited to conservatory seizure, followed by executory seizure and sale by public auction. Temporary closure is provided for in the Penal Code as a supplementary penalty; however, the closure at

[10] Articles 600 et seq. of the Code of Civil and Administrative Procedure govern procedures relating to the enforcement of enforceable instruments, particularly conservatory seizure, executory seizure, and the sale of immovable property by public auction.

[11] Article 144 of the Tax Procedures Code provides: "The collector of various taxes shall send a notice to every taxpayer entered on a tax roll. In addition to the total amount of each assessment, the notice shall specify the amounts payable, the conditions governing their due date, and the date on which collection begins."

[12] The temporary closure decision is issued by the Director of Large Enterprises or the Director of Taxes for the Wilaya, each within the scope of the applicable jurisdiction.

issue here is different because it constitutes a tax measure intended to recover a tax debt after the taxpayer has failed to pay despite having been duly served with a formal notice.[13]

This means that temporary closure is an absolute and exclusive power granted solely to the tax administration for the recovery of its debts. Hence, the tax administration is not limited to conservatory seizure but takes control of the taxpayer's business undertaking.[14]

The competent tax collector is responsible for recovering the tax debt, and failure to perform this duty gives rise to liability for any damage sustained by the Public Treasury. The temporary closure decision is not issued by the tax collector, however. Instead, the collector prepares a report accompanied by supporting documents, after which the Director of Taxes for the Wilaya or the Director of Large Enterprises, depending on the applicable jurisdiction, issues a closure decision for a period not exceeding six months. Otherwise, the decision is unlawful and may be annulled by the administrative court.

The closure decision is served on the taxpayer in accordance with the general rules governing service, either by registered mail with acknowledgment of receipt or by personal delivery against a receipt. The taxpayer is granted a maximum period of ten days from the date of service to regularize the situation, either through immediate payment or according to a payment schedule approved by the tax collector. If the taxpayer fails to regularize the situation, the premises are sealed by the competent official or a judicial officer in the presence of the person concerned and two witnesses. A report is then prepared and signed by all persons present.[15]

If the taxpayer persists in resisting enforcement, the taxpayer may challenge the decision judicially by bringing an action directly before the administrative court seeking the lifting of the closure, pursuant to Article 146 of the Tax Procedures Code.[16] In such a case, the competent court adjudicates the matter in accordance with the urgent procedures provided for in the Code of Civil and Administrative Procedure, particularly Articles 833 et seq.[17]

An application to lift a temporary closure raises the question of whether a prior administrative grievance, or complaint, must be submitted before judicial proceedings may be initiated. The author considers that Article 146 of the Tax Procedures Code does not require such a procedure but merely provides that the application must be adjudicated under urgent procedures, thereby permitting the administrative court to dispense with the requirement of a prior administrative grievance. The author further considers that the taxpayer should not be

---

[13] See Article 20 of the Penal Code.

[14] Under the various tax statutes and the Tax Procedures Code, these procedures may also be applied to a third party when a relationship with the taxpayer concerning the activity conducted has been established, such as a spouse, the owner of the commercial premises, or a manager.

[15] Article 146, first paragraph, of the Tax Procedures Code provides: "The period of closure may not exceed six months."

[16] A taxpayer affected by a temporary closure measure may challenge the decision for the purpose of obtaining its lifting by submitting an application to the president of the territorially competent administrative court, who shall adjudicate the matter as in urgent proceedings after hearing the tax administration or after it has been duly summoned. The challenge does not suspend enforcement of the temporary closure decision.

[17] The legislature did not specify a time limit within which the taxpayer may challenge a temporary closure decision. The time limit therefore remains open, provided that it does not extend beyond six months, because the temporary closure itself is limited to that period.

required to file a complaint before bringing the action because of the urgent nature of the measure and the possibility that it may result in the suspension of business activities or bankruptcy. The order issued by the administrative court may be appealed before the Council of State by either the taxpayer or the tax administration.[18]

A challenge to a temporary closure decision does not suspend its enforcement. The decision remains effective until the administrative court issues a contrary order. The taxpayer may also contest the tax by filing an objection to the enforcement proceedings pursuant to Article 153 or by submitting a complaint in an assessment dispute under Article 72 of the Tax Procedures Code. These challenges, however, do not suspend enforcement and may therefore prejudice the taxpayer's right to conduct commercial activities.

If the legislature has granted the tax administration the authority to order the temporary closure of commercial premises, what, then, is the legal status of the materials, goods, and means of production constituting the tangible assets used in the business activity?

The answer to this question is contained in the aforementioned provision, which authorizes the tax collector responsible for collection to sell these assets and materials in order to recover the tax debt.

2. Sale of the Tangible Assets of a Business Undertaking

If the taxpayer continues to refuse to pay the tax debt, the tax collector may, pursuant to Article 151 of the Tax Procedures Code, sell some or all of the tangible assets of the business undertaking in accordance with special and expedited procedures. Exceptionally, the business undertaking may be sold in its entirety at the request of a creditor, provided that the creditor registered a security interest or effected a seizure at least fifteen days before service of the executory seizure and submitted the request within the ten days following such service. The author considers that the taxpayer may also submit a written request for the sale of the business undertaking in its entirety to prevent a reduction in its value resulting from the separate sale of its tangible assets, subject to compliance with the procedures prescribed in the first paragraph of Article 151 of the Tax Procedures Code.[19]

The tax collector may not sell all or part of the assets of the business undertaking until the special procedures have been completed. The most important of these is obtaining authorization from the wali or the authority acting in the wali's stead, based on the opinion of the Director of Taxes for the Wilaya or the Director of Large Enterprises. The Algerian legislature has departed from the general rule by treating the wali's silence or failure to respond to the tax administration's request for more than one month as implied approval to proceed with the sale rather than as a refusal.[20]

The tax collector must serve notice of the executory seizure on the taxpayer at the taxpayer's elected domicile in accordance with the general rules governing service. The

[18] Under the Code of Civil and Administrative Procedure, the Algerian legislature prescribed a two-month period for appealing administrative judgments. This period is reduced to fifteen days for urgent orders unless otherwise provided by a special provision.

[19] By comparison, under French law, particularly Article L. 268 of the Tax Procedures Code, the public accountant supervising the operation may sell the entire business undertaking at the taxpayer's request pursuant to the third and fourth paragraphs of Article L. 143 of the French Commercial Code.

[20] Article 146 of the same code.

tangible assets of the business undertaking may not be sold until ten days have elapsed from the date of service. Exceptionally, the Director of Taxes for the Wilaya or the Director of Large Enterprises may authorize an immediate sale without referring the matter to the wali when the seized items are perishable or pose a danger to neighboring property. Under French law, the tangible assets of a business undertaking are not sold separately; rather, the business undertaking itself is sold, a procedure also permitted under Algerian law.

3. Sale of the Business Undertaking

As previously stated, if the proceeds from the sale of the tangible assets of the business undertaking are insufficient to satisfy the tax debt, the tax administration may, pursuant to the second paragraph of Article 151 of the Tax Procedures Code, sell the business undertaking. The legislature requires that ten days elapse from the date of publication of the notice of sale. The notice must contain information concerning the owner; the name and signature of the tax collector; the authorization of the wali or other competent authority; a description and valuation of the assets of the business undertaking; and the place, date, and time of the auction. The notice must also be posted at the main entrance of the property, at the headquarters of the Municipal People's Assembly, at the competent court, and at the office of the tax collector responsible for collection.[21]

The notice of sale of the business undertaking must be published in a newspaper authorized to carry legal notices at least ten days before the sale. Compliance with the publication requirements must be recorded in the sale report in accordance with the second paragraph of Article 151 of the Tax Procedures Code. The tax collector may also prepare conditions of sale for the business undertaking and make them available at the collector's office to prospective purchasers. The taxpayer may challenge the validity of the sale procedures by filing an objection under Article 153 when the formal procedures have not been observed. This administrative challenge, however, does not suspend the sale. The taxpayer may therefore bring an action for annulment on the ground of excess of power before the administrative court for failure to comply with Article 151 and may request a stay of execution pursuant to Article 919 of the Code of Civil and Administrative Procedure. The sale may not take place until ten days have elapsed following publication, and the procedures governing the sale of movable property apply to it. Under French law, by contrast, the sale of a business undertaking is subject to prior supervision by the president of the court.

Under French law, the sale of a business undertaking is governed by Articles L. 268 and R. 268-1 of the Tax Procedures Code. The public accountant responsible for collection may initiate the sale procedures only after satisfying several prior conditions, which may be summarized as follows:[22]

---

[21] Within the scope of the powers legally conferred on the tax collector responsible for enforcement, the collector may prepare conditions of sale concerning the business undertaking offered for sale so that third parties may inspect them at the collector's office.

[22] Article L. 268 of the French Tax Procedures Code provides: "When the competent public accountant intends to arrange for the sale of a business undertaking, the accountant may, by derogation from Articles L. 143-3 and L. 143-4 of the Commercial Code, request the president of the tribunal de grande instance to order that the sale be conducted in accordance with the procedures applicable to sales of property belonging to minors. In this

- The public accountant must submit an application for the sale of the business undertaking to the president of the *tribunal de grande instance* within whose territorial jurisdiction the business undertaking is operated.
- The adversarial nature of the proceedings must be respected by summoning the taxpayer to appear before the court and serving the taxpayer with the originating application, together with a statement that counsel must be retained within a maximum period of fifteen days calculated from the date of service.
- An enforceable instrument must have been served on the person concerned more than thirty days earlier.
- A prior seizure, in the form of a conservatory seizure, must exist.
- The application must state the relief sought, namely the sale of the business undertaking; set out the grounds relied upon; indicate the type of seizure requested; and refer to Article L. 268 of the Tax Procedures Code.

A difficulty arises in the compulsory sale of a business undertaking when the taxpayer also owns the immovable property in which the business is located, making it impossible to separate the business undertaking from the premises. The Algerian legislature has not addressed this situation, whereas the French legislature has adopted a system for the simultaneous sale of the business undertaking and the premises (*vente simultanée du fonds de commerce et des murs*) under separate procedures conducted under the supervision of the president of the court, thereby ensuring the recovery of tax debts.

4. Sale of Movable Property

The tax collector responsible for collection has the right to sell movable property belonging to the debtor, that is, the taxpayer who has refused to pay the tax debt pursuant to Article 152 of the Tax Procedures Code.[23] In such a case, the property is sold by public auction. If two auctions fail because there are no bidders or because the bid amount is below the opening price, the tax collector may conduct a private sale with authorization from the Director of Large Enterprises or the Director of Taxes for the Wilaya, depending on the relevant jurisdiction.[24]

Conclusion

The foregoing demonstrates that temporary closure and sale by public auction constitute simple and effective means of recovering tax debts because they are rapidly implemented and do not require recourse to the courts. Nevertheless, they may have serious consequences for the taxpayer, potentially resulting in the termination of the taxpayer’s business activity through the sale of the business undertaking.

The Algerian legislature may be criticized for inadequately regulating judicial disputes relating to these procedures, thereby creating a legal vacuum. French law, by contrast, subjects these measures to judicial oversight to protect taxpayers’ rights, particularly the right to property and freedom of commerce.

---

regard, the president shall exercise all powers conferred on the court by Articles 1272 et seq. of the Code of Civil Procedure.”

[23] The sale may also be conducted by a judicial officer or an auctioneer.

[24] Article 152, paragraph 2, of the Tax Procedures Code, as amended by Article 39 of the Finance Act of 2006.

References

Legislation

Code of Civil and Administrative Procedure.
Tax Procedures Code.
Direct Taxes and Similar Taxes Code.
Livre des procédures fiscales.

Books and Other Sources

Auby, J.-M., and R. Drago. *Traité de contentieux administratif*. LGDJ, 1984.

Bousquet, R. "Contentieux du recouvrement—Procédure: juridiction administrative." *JurisClasseur Procédures fiscales*, fasc. 615 (August 1994).

Buisson, J. *Le sursis au paiement de l'impôt*. Bibliothèque de science financière 33. LGDJ, 1996.

Casimir, J.-P. *Contrôle fiscal, droits, garanties et procédures: Code annoté RF*. 8th ed. Groupe Revue Fiduciaire, 2003.

Chapus, R. *Droit du contentieux administratif*. 6th ed. Collection Domat Droit public. Montchrestien, 1996.

Chevalier. *Jurisprudence administrative*. Vol. 1. Paris, 1836.

Cormenin. *Questions de droit administratif*. Vol. 2. Paris, 1837.

David, C., O. Fouquet, M.-A. Latournerie, and B. Plagnet. *Les grands arrêts de la jurisprudence fiscale*. 4th ed. Collection Droit public. Sirey.

De Laubadère, A., J.-C. Venezia, and Y. Gaudemet. *Droit administratif*. Vol. 1. 14th ed. LGDJ, 1996.

Gohin, O. *La contradiction dans la procédure administrative contentieuse*. Bibliothèque de droit public 151. LGDJ, 1988.

Gourdou, J., and Antoine Bourrel. *Les référés d'urgence devant le juge administratif*. L'Harmattan, 2002.

Grosclaude, J., and P. Marchessou. *Procédures fiscales*. Collection Cours Dalloz, Série Droit public—Science politique. Dalloz, 1998.

JCP. "Contentieux fiscal: le sursis de paiement." Fascicules 540, 542, 544, and 560. 2008.

Lamarque, J. *Droit fiscal général*. Collection Les cours de droit. Litec, 1995.

Lamy Fiscal. "Recouvrement et sursis de paiement." Vol. 2. 2003.

Le Berre, J.-M. *La procédure fiscale contentieuse*. PhD diss., Aix, 1977.

Martinez, J. *Le recours en excès de pouvoir en matière fiscale*. PhD diss., Strasbourg, 2000.

Perrot, R., and P. Théry. *Procédures civiles d'exécution*. Dalloz, 2000.

Pillet, F. *Guide pratique de la procédure dans le contentieux fiscal*. 2nd ed. Litec, 1992.