

Tax Evasion-A Crime in Itself: Relationship with Money Laundering

SRISHTI SINGH¹, PROFESSOR DR. AQUEEDA KHAN²

¹ LLM(CB&IL)

² Amity law school, Amity University, Noida

Abstract— Worldwide, tax evasion is a widespread problem that affects governments, cultures, and economies. The goal of this study article is to present a thorough knowledge of the issue by exploring the complex nature of crimes associated with tax evasion. This study investigates the various aspects of tax evasion crimes, including their prevalence, contributing factors, methodologies, and repercussions. It does this by drawing on a thorough review of literature, court records, and case studies. The first section of the essay outlines the legal terminology and frameworks pertaining to tax evasion, emphasizing the differences between legitimate and illicit tax avoidance. The various tactics used by people and businesses to avoid paying taxes are then examined; these range from straightforward underreporting of income to intricate offshore schemes and money laundering operations. To understand the underlying causes of these crimes, the socioeconomic elements that propel tax evasion—such as income disparity, regulatory loopholes, and inadequate enforcement mechanisms—are examined. The study also looks at how tax evasion affects society, including how it worsens socioeconomic inequality, erodes tax collections, and reduces public confidence in government institutions. Case studies from different countries are given to show how tax fraud affects society in real time and the difficulties law enforcement has in catching offenders. The study concludes by highlighting the critical need of enacting strong regulatory measures, strengthening international collaboration, and promoting tax transparency in order to reduce the incidence of crimes associated with tax evasion. Through the promotion of a more profound comprehension of the intricacies associated with tax evasion, this study seeks to educate legislators, law enforcement officers, and other relevant parties in order to help them devise efficacious approaches to tackle this enduring problem.

Indexed Terms— Tax evasion, crimes, invasion, illicit tax avoidance, income disparity, intricate offshore income, propel tax evasion, regulatory loopholes, educate legislators, law enforcement officers.

Purpose of Study

The goal of researching the connection between money

laundering and tax evasion is complex, encompassing both theoretical research and real-world policy ramifications. The following are some of the primary goals that such study may seek to accomplish:

Recognizing the Mechanisms, hiding money from authorities is a common element of both tax evasion and money laundering, their methods are distinct and frequently intertwined. While money laundering involves the act of making revenues obtained unlawfully (i.e., "dirty money") appear legal ("clean"), tax evasion is the illegal avoidance of taxes, usually through underreporting income, profits, or gains. Determining the financial footprints left by these activities can be made easier by comprehending the connections between these systems.

Methodology

This study of the connection between money laundering and tax evasion is a complex topic that calls for rigorous methodology design in order to produce insightful results. In order to investigate this relationship more thoroughly, the study can combine qualitative and quantitative approaches.

A thorough knowledge of the relationship between and potential aggravation of money laundering and tax evasion will be possible by this mixed-methods approach. Through the integration of qualitative insights and quantitative data, this research can offer a strong foundation to effectively comprehend and counteract these illicit acts.

Hypothesis

Tightening up tax compliance laws doesn't actually result in a discernible drop in money laundering activity.

I. INTRODUCTION

The intentional use of illegal means to avoid paying taxes by people, businesses, trusts, and other entities is referred to as tax evasion. To reduce their tax liability, people usually purposefully conceal or distort the truth about their financial situation from tax authorities.

This covers dishonest behaviors including inflating claimed deductions or underreporting income by downplaying earnings or gains, all without using instances of plagiarism.

Evasion and the informal economy are frequently associated. The amount of unreported income, or more specifically, the difference between the total income that is legally required to be reported to tax authorities and the actual reported amount—also referred to as the "taxgap"—is thought to serve as a gauge of the extent of tax evasion.¹

The legal use of the tax system to one's benefit in order to legally reduce the amount of tax due within bounds of the law is known as tax avoidance. While it is possible to think of both evasion and avoidance as negative kinds of non-compliance including acts, tax evasion is the act of not paying taxes on revenue that is earned or generated, which results in the production of "black money." In fact, there is a close relationship between black money and tax evasion. As a result, when we talk about tax evasion, we also talk about "black money"—the former being the means, the latter the product.

Investigative efforts aim to discreetly reveal dark money and reveal the real situation. In order to get assets and information that would otherwise be inaccessible to the department through traditional channels of inquiry and account scrutiny, searches and seizures are essential and effective tools in this.² The Wanchoo Committee made the following observation in this regard: "We view the department's ability to obtain direct and conclusive evidence regarding tax evasion and the presence of black money through the authority of search under the Income Tax Act as a powerful tool." Not only do searches turn out hidden books of accounts and black money in all its forms, but they also make it possible to seize disclosed income, which is only a portion of what has been earned, invested, or accumulated."

The Wenchao Committee Report emphasized the need for more stringency in these procedures and recommended improved mechanisms for searches and seizures to better uncover tax arrears. Even though the Raja Chelliah committee report suggests considerable

flexibility in these regulations, it is crucial to guarantee originality free from instances of copying.

The value of personal freedom is diminished in the lack of privacy, which is a fundamental right. By putting safeguards in place, the executive branch of government can be prevented from abusing its power and from violating other fundamental rights and invading private without cause.

Since intelligence collection and examination techniques are the cornerstone of the government's fight against tax evaders, the Department must refocus its strategy to address the growing complexity and progress of these procedures. Cases must be carefully reviewed and investigated through intelligence and examination procedures before fines and prosecutions are enforced. The Wanchoo Committee underlined this need in 1971, and Raja Chelliah now says that in order to effectively counter the threat of tax evasion, the Department's intelligence and inspection machinery should be greatly improved and streamlined.

In this situation, the State places a high priority on income collection, even at the risk of deterring law-abiding residents who pay their taxes. When deferral, evasion, and avoidance are committed by people in privileged positions, the State is more likely to overlook them since they work in white-collar jobs. This unintentionally creates an environment that is favorable to powerful but dishonest people who could bribe tax officials or have a great deal of experience. They might even conspire with political parties in certain situations. This pattern indicates that rather than prosecuting or integrating these people into the tax system, the State frequently makes concessions to them. This emphasizes the idea that laws are typically passed by the State, the political body that represents the economically powerful classes, with the primary goal of advancing those classes' interests.³ The Supreme Court ruled in a landmark decision that the Special Carrier provision was lawful under the applicable statute and that the legislation was not intended to support tax evasion or any other type of white-collar crime. The principal aim of the Act was to commence a nationwide inquiry with the purpose of identifying assets that were hidden. It penalized those who had previously evaded taxes and encouraged them to voluntarily reveal any hidden wealth in the

Finding hidden money was the main goal in order to stop the government's revenue stream from continuing to decline. Although there are specific anti-avoidance provisions in Indian tax laws, there are no all-encompassing anti-avoidance rules or regulations. In the context of tax rules, courts have established broad guidelines and standards over the years to ascertain whether a particular transaction or plan qualifies as lawful tax planning, tax evasion, or avoidance. The categorization of transactions or schemes under tax regulations remains unclear notwithstanding these efforts' future.

- **Overlapping of Tax evasion and Tax Avoidance.**
The main difference between avoidance and evasion is how different legal requirements are disregarded. Avoidance is the contempt of the law's fundamental intent, whereas Evasion is the disregard of the law's exact meaning. The consequences of Evasion and Avoidance are severe: Evasion frequently results in searches, seizures, fines, and authorized prosecutions; on the other hand, Avoidance is frequently justified by referring to it as tax planning.

One could argue that evasion is defined as any action taken by an assessee that is found to occur, regardless of the type of activity. On the other hand, avoidance occurs when an assessee uses tactics to reduce their tax obligations. For example, balancing excessive profits against losses is deemed to be avoidance; nonetheless, evasion occurs if the Evaluating Officer finds out about such a strategy. Comparably, declaring one's income in addition to that of one's spouse in order to lower one's tax liability is considered avoidance; nevertheless, when it is discovered, it is usually handled as evasion, which results in fines and legal action against the assessed person.

- **Tax planning versus Tax evasion and Avoidance**
⁴Tax avoidance, tax efficiency, and tax planning by businesses are not the same as tax evasion and should not be confused with it. All of these strategies seek to lower taxes, but they differ in some ways. Since tax planning aims to reduce taxes by utilizing the advantageous provisions found in tax legislation, it is completely lawful. However, tax avoidance satisfies legal requirements to reduce Tax evasion is the deliberate breaking of laws or the use of misleading tactics to avoid paying taxes. Reducing tax liabilities,

avoiding litigation, encouraging profitable investment, stimulating economic growth, and maintaining economic stability are the main goals of tax planning. Tax evasion and tax avoidance both reduce tax payments, albeit there is a very thin boundary between the two. The legality of the transaction is the key differentiator between the two. x liabilities even when it is theoretically permissible.

Intentionally trying to break the law or falsifying documentation in order to obtain tax benefits is against the law and is known as tax evasion. On the other hand, tax avoidance, which is usually seen as lawful, is structuring transactions within the allowable parameters of rules in order to get a tax advantage. The legal system has made an effort to distinguish between legitimate tax avoidance—also known as tax planning—and unacceptable tax evasion. Nonetheless, there is a thin line separating lawful tax planning from unlawful tax evasion, and this line has grown increasingly hazy due to the shifting and occasionally contradictory opinions of the judiciary. Businesses don't want the tax system to become more unpredictable as a result of this.

- **Birla Controversy**
The veracity of this claim was recently called into question in the wake of a highly publicized controversy concerning the restructuring of the Aditya Birla cement business, which resulted in the group gaining tax benefits. The largest cement producer in the country was established as a result of the transaction. A group firm, Grasim, split up its cement business into a fully-owned subsidiary, Samruddhi Cements, in October of the previous year. Ultratech, another group company, was then combined with Samruddhi Cements.

The goal of the resource consolidation was to combine the group's cement operations into a single, legally recognized organization that would be set up in accordance with a court order. The transaction could benefit from a capital gains tax exemption under section 47 of the Income Tax Act by choosing the merger method. A few experts expressed concerns about whether tax efficiency could be mistaken for tax cheating, arguing that this exemption might not hold up to examination from tax authorities. Court decisions can be used to resolve disputes like this one, and the

Birla family's stance is supported by the Supreme Court's decision in the A Raman and Co. case.

- Violation of Tax Laws

Taxpayers are not required by law to set up their affairs in a way that will result in higher taxes. To reduce their tax liabilities, all taxpayers are entitled to take all legal actions that are relevant to their particular situation. For example, it is permissible to claim allowable deductions from taxes, and taxpayers may lower their taxes on a certain income level by donating to charity organizations. On the other hand, tax avoidance is illegal. Usually, it entails underreporting income or submitting false claims for deductions. Here are a few common ways that people evade taxes:

- Not disclosing earnings in cash.
- Falsely deducting personal expenses from business expenses on a tax return.
- Inaccurately estimating the value of property contributed to charity or inflating the volume or value of donations in order to fraudulently claim charitable deductions.

⁶Among the more serious and frequent tax infractions in India are filing a fraudulent tax return, wilfully ignoring property, and materially undervaluing assets. The state exchequer suffers significant losses as a result of these infractions, which affect a number of tax categories including sales tax, wealth tax, income tax, and estate tax. These violations have detrimental effects beyond just the money involved. For example, they can corrupt governmental procedures through the use of illicit finances, which weakens public respect, trust, and confidence in the regulatory system as a whole.

Examples of Tax Evasion

- Evasion of custom duty

"In underdeveloped nations, customs duties are an essential source of income. In order to avoid paying customs charges, importers frequently (a) under invoice and (b) falsify product descriptions and amounts. In situations where there is ad valorem import tariff, under-invoicing lowers the tax base. Erroneous declaration of the quantity has a more significant effect on products that are subject to certain duties."

- Smuggling

Importing or exporting items from outside without authorization is known as smuggling. It is done to bring goods into a nation that are forbidden as well as to totally avoid paying customs duties. By avoiding approved customs ports, smugglers are able to evade paying customs fees and avoid declaring and paying taxes and levies on their goods.

Reasons behind Tax Evasion

Propensity-Tax avoidance and evasion were initially linked to a general deterioration in moral standards, a lack of tax awareness, and the absence of a social stigma attached to tax evasion. But these days, many avoid paying taxes for no other reason than they are habitually tax evaders. Therefore, since tax evasion has become ingrained in taxpayer behavior, even moderate tax rates are unlikely to appreciably reduce it.

High paces of Taxation

Chambers of Commerce and other trade and business associations have often maintained that tax rates have risen to nearly expropriation-level levels. The potential benefit from tax evasion can reach 2.5 percent of total taxable income when the minimum tax rate is around 97.75 percent. It becomes more advantageous to avoid paying taxes on a meagre Rs. 30 than it is to earn a legitimate Rs. 1,000, given the implications of a 97.50 percent income tax.

Gift to political party

Large sums of money are needed to pay for election expenses, and it is well known that these are mostly provided by affluent people with substantial sums of unreported income, also known as "black money." Some contend that this phenomenon is the driving force behind the creation of black money, implying that it is purposefully generated to fund election-related expenses, while others see it as nothing more than a way to make use of black money that already exists.

Ineffective enforcement of Tax regulations

⁷It is highlighted that a number of administrative and technical obstacles have made it difficult for the Income Tax agency to make meaningful headway in the fight against evasion. Tax evasion is common and tax compliance is still poor. The reasons for this

include high tax rates, dishonesty on the side of some taxpayers, and inefficiencies in the tax administration process, which may involve corrupt personnel. Raja Chelliah has proposed solutions to deal with the situation in;

i. High minimum tax rates and frequent changes in tax rates, such as those imposed on

import duties, property taxes, and excise taxes, may cause individuals to believe that their income has been improperly appropriated. Consequently, in an effort to correct this perceived imbalance, individuals can turn to noncompliance through tax evasion.

ii. Bribery, tax officers' collaboration with taxpayers, and institutional inefficiencies all play a part in tax evasion. Tax compliance is further hampered by budgetary restrictions, a lack of operational resources, and low employee morale. Income may therefore continue to be untaxed, and tax collection may be postponed for a variety of reasons.

iii. Tax administrators' insufficient experience and training, along with their lack of exposure to business practices, may make it more difficult for them to detect intricate domestic and international tax avoidance schemes, keep an eye on stock manipulations, or ensure that long-term contracts follow correct accounting procedures.

iv. It is difficult for taxpayers to accurately comply due to the complexity of tax laws and the wide range of taxes. This is made worse by a lack of thorough knowledge of the specific requirements of all tax laws, a number of deadlines, an abundance of paperwork, a paucity of accounting personnel, and a variety of intricate regulations. Tanzania has over thirty tax regulations, which emphasizes the need for more tax system protection.

• Tax evasion and Avoidance laws reform in India

⁸Based on the unfortunate consequences mentioned above, the government's approach to tax avoidance and evasion attempts to discourage and oppose such activities. This covers laws like sections 33 to 35 of the ITA 2004, which deal with tax avoidance schemes, and sections 98 to 124 of the same law, which prohibit tax evasion and avoidance. Furthermore, where major cases of tax avoidance are discovered, prompt passage and smart amendments to tax laws are another tool available to tax policymakers to combat

tax avoidance. Preventive tax maintenance is the best way to update the law because it is intended to foresee and stop possible cases of avoidance and evasion.

• Legal framework under DTC: An attempt to bring tax evasion and avoidance under the purview of any taxing statute in India⁹:

⁹A General Anti-Avoidance Rule (GAAR) is proposed by the Direct Tax Code (DTC) of 2009 with the goal of doing away with the distinction between tax evasion and avoidance. With the exception of a few particular provisions under Chapter X, Sections 92 and 93, that deal with the avoidance of tax in international transactions, the 1961 Act contains no direct or explicit measures addressing tax evasion or tax planning. A General Anti-Avoidance Rule (GAAR) has been inserted into Section 112 of the new Direct Taxes Code (DTC) to combat aggressive tax avoidance, which the government feels compromises the integrity and fairness of the system. According to the GAAR, a transaction is defined as a "scheme," which includes every phase, component, or part of an operation, arrangement, or understanding, regardless of whether it is legally binding.

CONCLUSION

In conclusion, tax evasion-related crimes present serious difficulties for governments and tax administrations around the world. The definitions, strategies, repercussions, and attempts to stop tax evasion have all been covered in this study article. In addition to costing governments vital money, tax evasion damages the integrity of the tax code and erodes public confidence in governmental institutions. Various forms of tax evasion have been discussed in this study, including underreporting income, exaggerating deductions, hiding assets offshore, and participating in fraudulent schemes. Individuals, companies, and organized crime groups use these strategies to avoid paying taxes and to stay under the radar of tax authorities.

Tax evasion is still a concern even after a number of anti-evasion measures have been put in place. This is brought about by things like tax law gaps, insufficient funding for tax enforcement organizations, and intricate international tax evasion strategies. Globalization and the development of technology have

also made it simpler for people and companies to participate in cross-border tax evasion.

A multifaceted strategy is needed to combat tax evasion, including bolstering legal frameworks, promoting international collaboration among tax authorities, streamlining tax administration procedures, and increasing public awareness of the significance of tax compliance. To further discourage people and organizations from committing tax evasion, it is essential to impose deterrent fines and sanctions.

In conclusion, governments, tax agencies, international organizations, and the corporate sector must work together to combat tax evasion. Detecting, preventing, and penalizing tax evasion is an effective way for nations to protect tax revenues, maintain the equity of the tax system, and foster economic growth and stability.