



# Tax investigations and illegal wildlife trade



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## What does a tax investigation involve?

A tax investigation involves examining a person's or company's affairs to establish if they are acting in accordance with the applicable tax laws. An investigation is usually initiated when there is a suspicion of tax evasion or other tax-related criminal activity, such as fraud or non-payment of fees.

Tax authorities typically use a risk-based approach in order to prioritise resources for investigation. Taxpayers (corporate or individuals) with high-risk profiles, for example due to the nature of their business, receive particular attention.

If there are signs of potentially suspicious activity, the examination will go deeper to establish solid indications of a tax offence. This may result in a prosecution.

## **How is it different from criminal and financial investigations?**

Tax investigations are primarily aimed at enhancing tax compliance and thereby increasing revenue generation for the government – not proving other offences such as bank robbery or money laundering.

Another difference is practical: tax investigations require specialist skills and knowledge of often highly technical taxation principles and laws.

A third difference lies in the different powers that tax authorities may have, depending on local legislation. For example, Uganda's tax legislation gives the Uganda Revenue Authority (URA) the power to access any information that may be required to facilitate an investigation, including databases that other agencies would need a court order in order to access. This allows for greater speed and efficiency, as well as maintenance of the confidentiality necessary for a successful search and seizure exercise to obtain critical evidence.

## **How can tax investigations complement other investigations?**

Tax investigations can be a powerful complement to other type of investigations. A suspect could be investigated for offences such as illegal wildlife trade (IWT), corruption, money laundering and tax evasion at the same time, for example.

This means more people looking at the case, which requires good coordination but also increases the likelihood of the investigators uncovering valuable information and evidence. It also means a greater chance of successfully prosecuting the suspect on multiple charges and of recovering evaded tax or other illicit funds.

An example from my own experience while at the URA was a case of an exporter who declared to Customs that he was shipping a consignment of fish maws – but sacks of ivory were later discovered hidden within the fish maws. As the URA was unable to get the container carrying the ivory returned to Uganda, we instead initiated a tax investigation against the suspect for making false and misleading statements in the Customs export declaration documents. We also analysed the domestic tax returns and established that they too were false and misleading. He had been a regular exporter and the declarations in the domestic tax returns did not match the value of the exports.

Though a conviction was not achieved due to flaws in evidence management, the case nevertheless points to the great potential of conducting parallel tax investigations in IWT cases. Financial investigations should also be initiated to consider whether money laundering linked to the IWT and tax evasion has occurred.

## **How can tax investigations help bring down high-level criminals?**

The American gangster Al Capone was famously sentenced not for his long list of serious and violent crimes but for tax evasion. Similarly, tax investigations can provide an alternative means to prosecute individuals who profit from crimes such as IWT but are careful to distance themselves from any evidence linking them to the crimes.

This is because these criminals often use front companies that do not pay tax or do not operate in accordance with the relevant tax laws. When their taxes are investigated, there is a not insignificant chance that they could be being fined for non-payment of taxes or other offences. Depending on the offence and on local laws, this may result in even higher penalties than under criminal or environmental laws.

Moreover, tax legislation may provide greater opportunities for obtaining financial information about such suspects and exchanging information internationally.

In Uganda, as in many countries, we still miss opportunities to do this. For example, the Customs department at URA once caught a trafficker at the border with forged documentation stating that he was exporting coffee to China; instead, he was loading ivory. The IWT case was dropped after the suspect jumped bail. If financial and tax investigations had been initiated alongside the IWT case, he might now be in prison for money laundering and tax evasion, with his ill-gotten gains back in the government treasury.

## **Investigative tools – from documents to digital forensics**

The term “tax investigation” might conjure up a pile of tax returns or Customs documentation. Document and financial analysis are certainly important. But tax investigation, just like any other investigation, involves more than examining paperwork.

Investigations often involve analysing physical evidence, such as checking the actual assets/goods which are subject to tax or Customs duties.

The growing digitalisation of documents and business accounting means that digital forensics skills and software are also vital. Investigators need to acquire digital evidence from computers and phones, such as business communications, money transfer records and other financial data. Investigators may also need to acquire, and learn how to use, different commercial accounting solutions depending on what the suspect has used. This is a challenge in low-resource law enforcement environments.

Tax investigations may also involve deploying agents in an overt or covert intelligence operation. If a suspect is using real estate to conceal undeclared income, for example, an agent can check the properties

using geospatial tools. Officers can now also gain significant intelligence to support a tax investigation from open sources on the internet, as the Basel Institute's [OSINT eLearning](#) course sets out. This is why many tax authorities, including the URA, have an intelligence section to support investigations.

An important tool in the case of trade in wildlife or environmental products is laboratory analysis to determine whether declared goods match what the documentation says. The URA analytical laboratory, for example, is equipped with basic tools to verify product compositions that can be verified against the data sheets alleged to be from the manufacturers in exporting countries. The URA science section has played a key role in verifying the authenticity of documents.

### **Why aren't tax investigations used more regularly in IWT cases?**

This is a very good question. In Uganda, despite the prevalence of IWT, the strong powers and capabilities of the URA, and relatively good inter-agency collaboration, no IWT cases have been prosecuted using tax offences as a result of a full tax investigation. Most IWT cases are still simply prosecuted as Customs offences, without considering any tax elements – or even other financial crime elements such as corruption and money laundering. The situation is unfortunately similar in other countries.

Capacity and coordination are key needs here. Arresting officers and criminal investigators need training to recognise potential elements of financial or tax offences. They can then alert other relevant government agencies, as could conservation practitioners and NGOs with reliable information. If tax authorities see that a case could lead to the recovery of significant unpaid tax, they have a strong incentive to swing into action. Multi-agency investigation teams could also help bridge the divide.



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