Commission de Surveillance du Secteur Financier

In case of discrepancies between the French and the English text, the French text shall prevail.

Luxembourg, 17 February 2017

To all the persons and entities under the supervision of the CSSF

CIRCULAR CSSF 17/650
as amended by Circular CSSF 20/744

Re: Application of the Law of 12 November 2004 on the fight against money laundering and terrorist financing, as amended (hereinafter "AML/CFT Law") and Grand-ducal Regulation of 1 February 2010 providing details on certain provisions of the AML/CFT Law ("AML/CFT GDR") to predicate tax offences

Ladies and Gentlemen,

This circular follows on from the new criminal provisions laid down in the Law of 23 December 2016 implementing the 2017 tax reform (hereinafter "TRL") which specifically concern the extension of the money laundering offence to aggravated tax fraud (*fraude fiscale aggravée*) and tax evasion (*escroquerie fiscale*). These new provisions transpose the revised FATF standard of 2012/2013 and of Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, in that they extend the money laundering offence to a new category of serious underlying offences, namely the "tax crimes related to direct and indirect taxes".

Thus, following the entry into force of the TRL, which amended, among other things, Article 506-1 of the Penal Code, the professionals subject to the obligations with respect to money laundering and terrorist financing (hereinafter "AML/CFT") shall, henceforth, take into account the new predicate tax crimes within the scope of their professional obligations, notably customer due diligence and cooperation with authorities.

The new predicate tax offences to money laundering are as follows[1]:

[1] Please refer to Annex 2 for the wording of these provisions.

- aggravated tax fraud and tax evasion within the meaning of subparagraphs (5) and (6) of paragraph 396 and of paragraph 397 of the General Tax Law (*Abgabenordnung*) (hereinafter "GTL");
- aggravated tax fraud and tax evasion within the meaning of the first and second subparagraphs of Article 29 of the Law of 28 January 1948 aiming to ensure the fair and exact collection of registration and inheritance duties, as amended (hereinafter "1948 Law"); and
- aggravated tax fraud and tax evasion within the meaning of Article 80(1) of the Law of 12 February 1979 on value added tax, as amended (hereinafter "VAT Law").

It should be noted that the simple tax fraud is subject to administrative sanctions and is not a predicate tax offence.

In accordance with the second subparagraph of Article 25 of the TRL, the money laundering offence is punishable with respect to the predicate offences of aggravated tax fraud and tax evasion committed as from 1 January 2017.

This circular, drafted jointly with the Financial Intelligence Unit (hereinafter "FIU"), aims at (i) providing further details by both authorities concerning the practical application of these new provisions by the professionals of the financial sector supervised by the CSSF (hereinafter "the professional(s)") and (ii) providing a list of indicators to assist the professionals. More generally, this circular does not alter the existing professional obligations in any way. Moreover, this circular follows on from the CSSF's communications with respect to the principles of tax transparency, notably through the circular letter dated 3 December 2012 (for credit institutions and investment firms) and Circular CSSF 15/609 of 27 March 2015 on the developments in automatic exchange of tax information and anti-money laundering in tax matters.

1 CUSTOMER DUE DILIGENCE

1.1 APPLICATION IN TIME

1.1.1 NEW BUSINESS RELATIONSHIP

For new business relationships entered into after 1 January 2017, the professional must obtain information on the purpose and intended nature of the business relationship, including on the origin of the funds involved, to enable the professional to form an opinion on the financial situation of the prospect, and to avoid an abuse of the business relationship with the aim of committing a money laundering offence in relation to a predicate tax offence, committed or attempted, in Luxembourg or abroad[2].

1.1.2 EXISTING BUSINESS RELATIONSHIP

As regards existing business relationships, the professional subject to the AML/CFT Law must obtain the information referred to in point 1.1.1, at "appropriate times on a risk-sensitive basis"

[2] Article 3(1)(a) and (b) of the AML/CFT Law.

as provided for in Article 1(4) of the AML/CFT GDR and Article 3(5) of the AML/CFT Law. This refers, among other things, to situations involving a high risk or a significant transaction.

With respect to dormant accounts, this means the moment at which the account is reactivated or the moment at which the assets are claimed by an entitled person.

1.1.3 MONITORING OF THE BUSINESS RELATIONSHIP

Throughout the business relationship, the professional subject to the AML/CFT Law must perform ongoing due diligence, notably by verifying that the transactions are consistent with the professional's knowledge of the customer's situation and with the customer's risk profile[3].

1.1.4 CLOSED BUSINESS RELATIONSHIP

Business relationships that were closed before 31 December 2016 do not need to be subject to retrospective due diligence.

1.2 SCOPE

The professional's due diligence must extend to the tax obligations of the customers, be they resident or non-resident taxpayers.

As regards the Luxembourg tax obligations, due diligence includes all types of direct taxes (income tax, corporate tax, etc.), registration and inheritance duties and value added tax.

As for foreign tax obligations, due diligence applies to tax offences incriminated in the States concerned, even if the legislation of the country of tax residence does not impose the same type of duties and taxes or does not have the same duties and tax regulations as Luxembourg. Thus, due diligence must extend, for example, to wealth tax or inheritance duties for direct descendants due, where applicable, in the tax residence country of the customer, without the professional being required to have an exhaustive and thorough knowledge of the foreign tax legislation.

2 INTERNAL ORGANISATION

The internal AML/CFT policies, procedures and measures must be extended to the money laundering of predicate tax offences, notably as regards the risk assessment of the professional's activity, of the professional's customer base and the determination of the information that needs to be collected.

In particular, the professional must raise the awareness of and train the employees concerned in order to enable them to identify the transactions that may be linked to the laundering of advantages from predicate tax offences.

This new framework must be implemented by the AML/CFT compliance officer and be controlled by the professional's internal audit. The professional's authorised management must

[3] Article 3(2)(d) and 3(7) of the AML/CFT Law and Article 1(3) of the AML/CFT GDR.

closely monitor the implementation of the framework and regularly report thereon to the Board of Directors or to the Supervisory Board.

3 COOPERATION WITH THE AUTHORITIES

The professionals must inform, without delay and on their own initiative, the FIU where they know, suspect or have reasonable grounds to suspect that money laundering of a predicate tax offence is being committed, has been committed or has been attempted. The professionals concerned must refer to the FIU's guideline concerning suspicious transaction reporting[4]. Communicating at the same time to the CSSF is required based on the criteria set out in Circular CSSF 11/528 of 15 December 2011[5].

3.1 NATURE OF THE SUSPICION

A suspicion may arise in consideration of the person concerned, its development, the origin of its assets, the nature and purpose or terms of the operation in question. The professional must not wait until it is certain that a predicate tax offence is being committed, has been committed or has been attempted before reporting a suspicion. The professional must not reconstitute the tax statements of its customer in order to calculate the amount of defrauded taxes/undue reimbursement or wait for a tax reassessment.

In this context, the professional shall rely on indicators likely to reveal potential laundering of a predicate tax offence. The scope of these indicators shall be assessed on a case-by-case basis.[6]

If an indicator or a combination of indicators raise doubts, the professional shall examine the business relationship/transaction more thoroughly in order to verify if doubts are justified given the context of the operations and the professional's knowledge of the customer's situation. Where doubts remain, the professional shall make a suspicious transaction report to the FIU.

Such indicators may be the result of, e.g., the unjustified use of shell companies, the interposition of persons without any explanation regarding their usefulness, inconsistent financial operations, anomalies in invoices, purchase orders or supporting documents, unexplained use of transit accounts, unusual and unexplained withdrawal of cash, refusal to produce supporting documents, fund transfers to a foreign country followed by the repatriation of these funds as a loan, deposit by an individual of funds unrelated to the profession or the origin of the customer's funds, etc.

Other examples of indicators are listed in Annex 1.

[4] http://www.justice.public.lu/fr/legislation/circulaires/ligne_directrice_17_01/dos_v_2.pdf
[5] https://www.cssf.lu/en/document/circular-cssf-11-528/
[6] As regards dormant accounts, the professional shall use the indicators likely to reveal potential money laundering of a predicate tax offence and assess the scope of these indicators on a case-by-case basis.

3.2 REPORTING THRESHOLD

3.2.1 PREDICATE TAX OFFENCES COMMITTED IN LUXEMBOURG

The TRL distinguishes between simple tax fraud subject to administrative sanctions, and aggravated tax fraud and tax evasion, which are subject to penal sanctions. Only tax crimes are predicate offences and subject to the professional obligations under the AML/CFT Law.

It should be stressed that the suspicious transaction reporting obligation applies without the reporting person needing to qualify the underlying offence[7].

Consequently, the professional is not required to qualify the aggravated tax fraud or the tax evasion. In particular, the reporting person does not need to reconstitute the tax statements of its customer to ascertain if one of the thresholds for predicate tax offences is exceeded (a quarter of the annual tax due, EUR 200,000 or a significant amount either as an absolute amount or in relation to the annual tax due); there need only be circumstances that make the hypothesis of these thresholds being exceeded plausible.

However, the professional is not required to report to the FIU if it appears plausible that the annual amount of eluded taxes, duties or levies does not exceed EUR 10,000. The afore-mentioned possibility not to report below the EUR 10,000 threshold does, however, not apply to cases of tax evasion for which the professional concerned must assess whether the threshold of "significant amount either as an absolute amount or in relation to the annual tax due" has been exceeded.

3.2.2 PREDICATE TAX OFFENCES COMMITTED ABROAD

Under Article 506-3 of the Penal Code, laundering of advantages from predicate tax offences referred to in Article 506-1 of this Code, is also punishable where the predicate offence was committed abroad, subject to the offence being punishable in the State in which it was committed (principle of dual criminality condition).

Therefore, the minimum thresholds provided for in the TRL do not apply to tax crimes committed abroad.

3.3 PERSONS CONCERNED

The potential authors of tax crimes are the person subject to the eluded taxes, duties or charges and the beneficiaries of undue reimbursements. The persons that have given the instructions to commit these tax offences or that have knowingly given them the instruments, helped or assisted them, are considered as their accomplices. Thus, the suspicion of money laundering of a predicate tax offence may not only concern the person subject to tax and deriving a pecuniary benefit from the tax crime, but also the accomplice whose remunerations are likely to constitute the proceed of its aiding and abetting.

[7] Article 5(1)(a) of the AML/CFT Law.

3.4 ATTEMPT

Attempted money laundering is punishable by the same sanctions as a completed money laundering offence[8].

Money laundering and attempted money laundering also apply to attempted predicate tax offences.

An attempted tax crime (i.e. aggravated tax fraud or tax evasion) consists in a beginning of the execution which is not followed by a voluntary abandonment. The beginning of the execution of a tax crime consists in submitting a statement, of which the taxpayer or accomplice is aware that it is inexact, to the tax administration.

The tax crime is completed from the moment the tax is eluded or the reimbursement unduly received is definitively established by the competent tax administration.

Non-filing of a tax statement within the allocated deadlines is not a tax crime, but a *sui generis* breach of the General Tax Law, punishable by an administrative fine[9].

However, the professional must not wait to be certain that the customer files an inexact statement with the administration, but shall report its suspicion to the FIU as soon as circumstances allow presuming the filing of a false statement.

On behalf of the State prosecutor,

David LENTZ

Procureur d'Etat adjoint

On behalf of the CSSF,

Jean-Pierre FABER	Françoise KAUTHEN	Claude SIMON	Claude MARX
Director	Director	Director	Director General

[8] Article 506-1 point (4) of the Penal Code.
[9] Paragraph 166, subparagraph 3 of the GTL.

"Annex 1

List of indicators concerning the professional obligation to report suspicions regarding the predicate offence of laundering of an aggravated tax fraud or tax evasion

This annex provides a list of indicators likely to reveal a possible laundering of a predicate tax offence to the professionals of the financial sector subject to the AML/CFT supervision of the CSSF. The professional shall respect the following steps:

• If an indicator or a combination of indicators raises doubts, the professional shall examine the business relationship/transaction more thoroughly in order to verify if doubts are justified given the context of the transactions and the professional's knowledge of the customer's situation (KYC and KYT).

• Where doubts remain, the professional shall report the suspicions to the FIU.

A single indicator, or even several indicators, are not necessarily sufficient grounds for raising a suspicion of laundering.

It must be noted that the following examples of indicators are neither exhaustive, nor do they exclude other criteria, and that they may change over time.

I. Common indicators ("List I.")

(1) The customer is a legal person or a legal arrangement set up in a jurisdiction that is not subject to AEOI/CRS/FATCA reporting[10] and this "entity" has no economic, asset or other reality, except where (1) the customer demonstrates that its establishment complies with the legal provisions of the country of residence of the customer/beneficial owner or (2) the existence of the entity is in effect known to the tax authorities of the country of residence of the beneficial owner based on supporting evidence.

(2) The customer is a company or uses companies in which a multitude of statutory changes (unexpected and short-term changes) have taken place, for example with the purpose of appointing new managers, moving the registered office to a jurisdiction which is not subject to AEOI/CRS/FATCA reporting, amending the corporate purpose or corporate name, not justified by the economic situation of the company.

(3) The use of companies or legal structures located in a jurisdiction other than the tax residence or place of regular economic or professional interests of the beneficial owner, except where (1) the customer demonstrates that its establishment complies with the legal provisions of the country of residence of the customer/beneficial owner or (2) the existence of the legal person is in effect known by the tax authorities of the country of residence of the beneficial owner based on supporting evidence.

[10] http://www.oecd.org/tax/automatic-exchange/crs-implementation-and-assistance/crs-by-jurisdiction/

(4) Completion of a commercial transaction at a price that is obviously under-estimated, overestimated or inconsistent.

(5) Findings of anomalies in the documentation justifying the transactions, and notably atypical or unusual transactions (e.g. no VAT number, no invoice number, no address, all of which may put into question the supporting evidence of the document supplied).

(6) The customer's refusal to provide the tax compliance documentation or information needed for tax reportings or the presence of indications raising suspicions regarding fiscal noncompliance (e.g. refusal to communicate the tax identification number or the fiscal address, refusal to complete the AEOI/CRS/FATCA self-certification, refusal to receive a tax reporting, the AEOI self-certification signed by the customer states a fiscal address in Luxembourg while the postal address and/or telephone number and/or any other information shows that the customer does not reside in Luxembourg).

(7) Substantial increase, over a short period, of movements on banking account(s) which was (were) until then scarcely active or inactive, without this rise being justified, notably by a verified development of economic or business activities of the customer.

(8) Observation of inconsistencies between the business volume (e.g. based on company accounts) and movements on bank accounts.

(9) Substantial and/or irregular transactions linked to professional activities on personal/private accounts.

(10) Payment or reception of fees to or from foreign companies without business activities or without substance or link between the counterparties and whose purpose seems to be economically unjustified re-invoicing.

(11) Classification of a company or legal structure as "Active Non-Financial Entity" based on CRS regulations and without the change being justified by the development of the business of the company or legal structure.

(12) Requests for assistance or provision of services whose purpose could be to foster circumvention of the customer's tax obligations.

(13) Use by the customer of complex structures without economic or asset purpose, except where e.g. (1) the customer demonstrates that its establishment complies with the legal provisions of the country of residence of the customer/beneficial owner or (2) the existence of the legal person is in effect known by the tax authorities of the country of residence of the beneficial owner based on supporting evidence.

(14) Unjustified refusal of any contact or unjustified request of hold mail and more particularly if the customer is domiciled in a jurisdiction that is not subject to AEOI/CRS/FATCA reporting (e.g. the unjustified request of a customer not to be contacted ever in writing (post and/or email); the customer states that tax obligations are fulfilled and has signed a tax compliance statement, but has never collected its post or consulted its account online. The customer does thus not have the necessary elements to fulfil its tax obligations).

(15) The transfer of funds from a country that according to the professional could be considered as being risky from a tax transparency point of view, except for example where the customer provides evidence that the funds have been declared.

(16) Inconsistent information available to the professional concerning the tax residence of the customer.

(17) Use of so-called back-to-back loans, without valid justification.

(18) Move of the tax residence from a jurisdiction that is not subject to AEOI/CRS/FATCA reporting to a jurisdiction that is subject to such reporting without notifying the professional, in order, potentially, to escape reporting.

(19) Financial transactions that are inconsistent with the usual activities of the customer or with its profile or with the asset situation stated by the customer or suspect operations in sectors that are prone to VAT or other tax fraud, in a generally cross-border context.

(20) Withdrawal or deposit of cash that is not justified by the level or nature of the commercial activity or known professional or asset situation.

(21) Documentation on tax compliance leaving room for doubt as it was issued by a person close to the final customer and there being a potential conflict of interests.

The customer reference should be read as investor for the above listed indicators in the context of the collective investment activities and the professionals providing services in that particular sector.

II. Specific indicators concerning collective investment activities ("List II.")

Complex investment structuring

1) The collective investment fund[11] (the "UCI") has recourse to a complex investment structure, involving one or more legal entities or one or more legal investment structures interposed between the UCI and the ultimate target investment, located in different jurisdictions with some of them not complying with international transparency standards, except where this investment structure complies with the tax provisions of the country of residence of these companies or legal investment structures.

Tax base erosion

2) The IFM business model results in a significant decrease of the investment fund manager's (the "IFM")[12] taxable earnings by using cross-border transfers, triggering questions regarding

[11] As defined in points 1) a. to e. of CSSF Circular 19/721
[12] As defined in point 1) f. of CSSF Circular 19/721

compliance with transfer pricing rules and more generally with Luxembourg laws implementing directly or indirectly BEPS related actions[13]. Such cross-border transfers can be:

- financial flows (e.g. management or marketing commissions and/or retrocessions but also interest or dividend flows); and/or
- intangible assets.

Investment transactions

3) The UCI performs investment transactions on unregulated markets where the economic beneficiaries of the counterparties to the transaction and/or their intermediaries are located in a jurisdiction not subject to AEOI / CRS / FATCA reporting or which present risk factors similar to those specified under point 79 of the FATF Guidance for a Risk-Based Approach for the Securities Sector dated October 2018[14].

4) Transactions do not have apparent economic rationale in a specific context (e.g. Private Equity / Real Estate context).

5) Frequent transactions result in losses for which the professionals or the counterparty appears to have no concern.

Efficient portfolio management techniques[15]

6) The UCI uses efficient portfolio management techniques such as securities lending transactions which may create tax arbitrage or tax refund that have been or could be considered as aggravated tax fraud/tax evasion as highlighted i.a. by ESMA in its report "*ESMA70-154-1193 - Preliminary findings on multiple withholding tax reclaim schemes*".

SICAR

7) The UCI, under the SICAR Law of 15 June 2004, is not in a position to fulfil the requirement of investing in securities representing "risk capital" and in particular, to create value at the level of the portfolio companies/of developing the target entities in accordance with the requirements of CSSF Circular 06/241 specifying aforementioned law. Not fulfilling these requirements would have as a consequence that the company uses illegally the SICAR status which could have a significant tax impact.

Subscription tax

8) The UCI or the IFM is not in possession of adequate and sufficient information on the quality and status of the investors in order to make the subscription tax declarations to the *Administration des Enregistrements et Domaines* in an appropriate manner and in accordance with the legal requirements applicable to it, unless it can be justified that

[13] The Base erosion and profit shifting ("BEPS") refers to tax planning strategies used by multinational enterprises that exploit gaps and mismatches in tax rules to avoid paying tax. The BEPS actions developed in the context of the OECD/G20 BEPS Project aim at addressing tax avoidance and ensuring that profits are taxed where economic activities generating the profits are performed and where value is created. http://www.oecd.org/tax/beps/

[14] http://www.fatf-gafi.org/publications/fatfrecommendations/documents/rba-securities-sector.html

[15] As defined in the CSSF Circular 08/356

- these legal or tax statuses of the investors comply with the legal requirements governing the subscription tax; and
- the investors' status comply with the legal provisions of the country of residence of these investors.

Investor tax reporting

9) The UCI or the IFM distributes its units[16] in a country which has in place a set of obligations for investor tax reporting. The reporting is based, among other things, on various requirements such as,

- the registration with the tax authorities and/or,
- the tax reporting of tax data.

The above mentioned requirements will be used by the investors (or the final investors in case of a fund of funds structure) for their tax returns or by the paying agents to deduct or levy withholding taxes that may be considered equivalent to tax advances to their personal or corporate tax return, unless the UCI or the IFM can justify that:

- it has taken the necessary steps to ensure that such steps taken by the UCI or the IFM and/or by a service provider comply with the rules and principles of the local tax laws; and
- the UCI or the IFM has taken the necessary steps to provide information to investors or foreign tax or regulatory authorities on a timely manner as required by the local laws of the country of distribution."[17]

[16] As defined in paragraph 27 of Article 1 of the Law of 17 December 2010 or securities or partnership interests as defined in Article 1 of the law of 13 February 2007 (hereafter the "Units")
[17] Amended by Circular CSSF 20/744

Annex 2

Wording of the new predicate tax offences for money laundering as referred to in the TRL[18]

Excerpt from the TRL

- **Penal Code (*Article 18 of the TRL*)**

"In Article 506-1 point (1) of the Penal Code, the following three indents shall be inserted before the last indent:

> *" - an aggravated tax fraud or tax evasion within the meaning of subparagraphs (5) and (6) of paragraph 396 and of paragraph 397 of the General Tax Law;*
> *- an aggravated tax fraud or tax evasion within the meaning of the first and the second subparagraphs of Article 29 of the Law of 28 January 1948, aiming to ensure the fair and exact collection of registration and inheritance duties, as amended;*
> *- an aggravated tax fraud and tax evasion within the meaning of Article 80(1) of the Law of 12 February 1979 on value added tax, as amended;""*

- **Amendment of the General Tax Law of 22 May 1931, as amended ("Abgabenordnung")**
  (Article 7, points 12°, 13° and 15° of the TRL)

"12° Paragraph 396, subparagraph (5) shall be amended as follows:

*"(5) If the fraud relates to a tax amount exceeding a quarter of the annual tax due and without being lower than EUR 10,000 or to an undue reimbursement exceeding a quarter of the annual reimbursement due without being lower than EUR 10,000 or if the eluded annual tax or annual reimbursement exceeds EUR 200,000, such fraud will be punished as **aggravated tax fraud** by imprisonment from one month to three years and a fine of between EUR 25,000 and an amount equal to six times the amount of eluded tax or unduly received reimbursement. " "*

"13° ...Paragraph 396 shall be completed by a new subparagraph (6) worded as follows:

*"(6) If the fraud relates to a significant amount either in absolute terms or in relation to the annual tax due or annual reimbursement due and has been committed through the systematic use of fraudulent acts with the purpose of dissimulating pertinent facts from tax authorities or of persuading them that inaccurate information is factual, such fraud shall be punished as **tax evasion** by imprisonment of one month to five years and a fine of between EUR 25,000 and an equal to ten times the amount of eluded tax or unduly received reimbursement. " "*

"15° Paragraph 397, subparagraph (1) shall be amended as follows:

[18] Unofficial English translation.

(1) Attempted aggravated tax fraud within the meaning of paragraph 396, subparagraph (5) and attempted tax evasion within the meaning of paragraph 396, subpargraph (6) shall be punishable by the same penalties. ” ”

- **Amendment of the Law of 28 January 1948 aiming to ensure the fair and exact collection of registration and inheritance duties, as amended (*Article 13, point 4° of the TRL*)**

“4° Article 29 shall be amended and read as follows:

“The person that fraudulently evaded or attempted to evade payment of all or some taxes, duties and levies, the collection of which is the responsibility of the Administration de l’Enregistrement et des Domaines except for the value added tax, and such committed or attempted fraud concerns, per reporting period or triggering event, an amount exceeding a quarter of the duties due without being lower than EUR 10,000 or an amount exceeding EUR 200,000, will be punished, for aggravated tax fraud, by imprisonment of one month to three years and a fine of between EUR 25,000 and an amount equal to six times the amount of eluded duties.

*If the person has systematically used fraudulent acts with the purpose of dissimulating pertinent facts from tax authorities or of persuading them that inaccurate information is factual, and if such committed or attempted fraud concerned, per reporting period or triggering event, a significant amount either in absolute terms or in relation to the duties due, the author of such act shall be punished, for **tax evasion**, by imprisonment of one month to five years and a fine of between EUR 25,000 and an amount equal to ten times the amount of eluded duties. ” ”*

(...)".

- **Amendment of the Law of 12 February 1979 on value added tax, as amended *(Article 12, point 6° of the TRL)***

“6° Article 80(1) shall be amended and read as follows:

*“1. If the committed or attempted offence referred to in Article 77(3) relates, per reporting period, to an amount exceeding a quarter of the value added tax due without being lower than EUR 10,000 or an undue reimbursement exceeding a quarter of the reimbursement due without being lower than EUR 10,000, or if the eluded value added tax or unduly received reimbursement exceeds EUR 200,000 per reporting period, the author of such fraud will be punished, for **aggravated tax fraud**, by imprisonment of one month to three years and a fine of between EUR 25,000 and an amount equal to six times the amount of eluded tax or unduly received reimbursement.*

If the person has systematically used fraudulent acts with the purpose of dissimulating pertinent facts from tax authorities or of persuading them that inaccurate information is factual, or if this person is a member of an organised group, and if such committed or attempted fraud concerns, per reporting period, a significant amount of eluded value added tax or unduly received reimbursement either in absolute terms or in relation to the duties on value added tax

*due per reporting period or reimbursement due, the author of such fraud shall be punished, for **tax evasion**, by imprisonment of one month to five years and a fine of between EUR 25,000 and an amount representing ten times the amount of eluded tax or unduly reimbursed.*

(...)".