

The Contribution of Accounting Judicial Expertise to Resolving Corporate tax Disputes.

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Abstract:

In the world of economics and finance, most companies may encounter numerous and varied tax disputes with tax authorities. These disputes can sometimes reach courtrooms, where judges find themselves facing a purely technical field—accounting—which, due to their lack of expertise in this area, compels them to seek assistance from accounting specialists to help resolve the conflict between the companies and tax authorities. Hence, the subject of this paper emerges: judicial accounting expertise and its importance in resolving tax disputes.

Keywords: Tax disputes, judicial accounting expertise, expert report, methods and procedures.

Introduction:

The Algerian legislator has granted the judge the authority to seek assistance from experts in matters presented before them, to be guided by their opinion in understanding such issues. "The appointment of an expert is left to the discretionary power of the judge"¹. This allows for reaching the appropriate and most precise decision based on sound scientific foundations. Accounting is among the most important and prominent subjects addressed by judicial expertise. Expertise is a means of proof and an investigative procedure; it has its own rules, techniques, and specificities that must be learned and carefully considered. Great attention is given to this technical consultation and to preserving the fees and rights of those conducting it. However, this attention remains limited compared to what Western countries have achieved. Efforts are being made to present it in the best possible light due to the role played by judicial accounting expertise, especially since it is a clear reflection of the level of scientific development. The latter is based on skills and techniques that aid in investigation. The judicial accounting expert entrusted with the expertise must be well-versed in all operations and matters related to auditing and everything connected to the accounting aspect, in addition to the legal aspect.

Given the complexity of activities generating income and profits subject to taxation, both tax legislation and tax administration have become characterized by complexity. This may lead to some shortcomings in application and interaction with various taxpayers, who maintain an adversarial view of taxes as long as they are imposed and forcibly collected from their funds. Consequently, the taxpayer tries hard to conceal their true financial situation or attempts to ignore paying their tax obligations to the public treasury. In this case, the tax administration is

forced to adopt coercive methods in tax collection through specific mechanisms and procedures guaranteed by tax law. Within the framework of the tax administration performing these tasks, disputes may arise between the taxpayer and the tax administration regarding the amount of the tax base, or the methods and mechanisms of forcible collection of tax amounts. Accordingly, the taxpayer resorts to contesting the tax administration.

Problem Statement of the Paper: The business world in the modern era has become complex, and the interactions and conflicts among its actors have increased to the extent that specialization in every aspect is required to efficiently achieve the interest of all. The world of disagreements and interpretations with financial impact is one of the sectors most in need of expertise and specialization. From this standpoint, expertise is highly required in accounting matters and is challenging for non-specialists. Therefore, judges must seek assistance from experts to resolve disputes brought before them, including tax disputes. Hence, our problem statement is:

To what extent does judicial accounting expertise contribute to resolving corporate tax disputes?

Importance of the Paper: This paper is of great importance in introducing the subject of judicial accounting expertise to many parties unfamiliar with this field, as well as:

1. Highlighting the legal and accounting aspects of this field.
2. Attempting to identify the main steps for conducting judicial expertise related to tax disputes.
3. "Clarifying the role played by forensic accounting in supporting litigation, report writing, event tracking, fact and data collection, and developing strategies useful in preventing and detecting fraud and financial and administrative corruption"².
4. Providing an academic description of the content of the expert report prepared by the expert.
5. Understanding the extent of the judiciary's need for such experts in resolving many tax disputes and the extent to which their opinions are considered in this field.

Objectives of the Paper: In this paper, we have two main objectives that we want to focus on strongly:

1. Clarifying the value of judicial accounting expertise in the general life of companies and the main steps for conducting an expertise.
2. The necessity of resorting to expertise in all tax disputes to ensure justice for both parties.

Hypotheses of the Paper:

1. The high rate of tax disputes between various companies and tax authorities requires the use of judicial accounting expertise to resolve such cases.
2. The opinion of the judicial accounting expert effectively contributes to resolving tax collection disputes between companies and tax authorities.

Previous Studies:

-Abdel Sattar Abdel Jabbar & Aidan Al-Kubaisi (2016): A field survey study on forensic accounting from the perspectives of the judiciary and the forensic accountant in Jordan. *Jordanian Journal of Business Administration*, University of Jordan. The study aimed to investigate the importance of forensic accounting in fairly resolving financial disputes in Jordan, based on the perspectives of both the judiciary and the forensic accountant. The study relied on a questionnaire. The results showed differences between the perspectives of the parties concerned with forensic accounting services and their applications. Based on the findings, several conclusions were drawn, the most important of which was that although the statistical results were good, they did not reach the true level that forensic accounting should play in combating fraud and achieving justice in society. Based on the conclusions, the study proposed several recommendations that could contribute to developing the status of this vital field in Jordan.

-Bouchak Nadia & Saiyad Assia (2017): Judicial accounting expertise in Algeria and its role in reducing economic crimes. *Algerian Journal of Economics and Finance*, University of Medea. This study aimed to highlight the role of judicial accounting expertise in reducing economic crimes in Algeria. The problem statement of the study was: What is the role of judicial accounting expertise in the judicial combat of economic crimes? The study reached a set of results, the most important of which was that judicial accounting expertise is an important tool with a special status in the judiciary and practically contributes to reducing economic crimes. The study proposed several recommendations, the most important of which was the necessity of establishing a legal system specific to the judicial accounting expert, similar to the law for the judicial engineer expert and the judicial medical expert, because enacting a law specific to the profession would be more precise and detailed in defining the tasks, rights, and duties of the judicial accounting expert and their relationship with various bodies and institutions.

-Fatima Haid (2018): The extent of the administrative judge's need for judicial expertise in resolving tax disputes from the perspective of legislation and judiciary (Algeria - Morocco). *Journal of Legal and Political Research*, Faculty of Law and Political Science, Mohamed Seddik Ben Yahia University, Jijel. The study aimed to identify the role of judicial expertise in putting an end to tax disputes from the perspective of legislation and judiciary. The study reached a set of results, the most important of which was that tax disputes are characterized by a distinct private nature compared to other administrative disputes, thus requiring specialists in the legal, accounting, and tax fields to adjudicate them. The study presented several recommendations, the most important of which was the necessity that the person conducting the expertise not only hold the title of accounting expert but also a tax accounting expert.

I: Nature of Judicial Accounting Expertise

1. Definition of Judicial Accounting Expertise:

1.1 Specific Definition: Judicial accounting expertise is "a task assigned by the court to one of the experts registered on the list"³. Meanwhile, Ali Shehata (2009) defined it as an accounting and professional service that looks beyond the numbers. This review is conducted by a person or team qualified scientifically and practically, using specialized and integrated

skills in accounting, auditing, research, investigation, and inquiry to provide appropriate evidence that aids their work and leads to a specific conclusion⁴.

The definition of the American Institute of Certified Public Accountants (AICPA) states that "forensic accounting involves the application of special skills in accounting, auditing, finance, quantitative methods, aspects of law, research, and investigative skills to collect, analyze, and evaluate evidential evidence, interpret and report findings, whereby forensic accounting is performed in the form of testimony or consultation"⁵. Another definition describes it as: "the integration or union of investigative, accounting, and auditing skills to conduct the analysis that will form the basis for finally resolving or settling discussions or disputes"⁶.

Judicial accounting expertise, also called in some countries "investigative accounting, forensic accounting, or investigative accounting," is a means that uses the skills and techniques of accounting, auditing, and investigation to uncover financial damages, for use in legal investigations and reporting, which helps the judge resolve disputes fairly and properly. The judge uses it to prove facts and discover accounting errors presented to them, thus reaching a solution enabling them to issue a fair and appropriate judgment⁷.

From these definitions, we conclude that: Judicial accounting expertise is a task assigned by the judge to an expert registered on the list, aiming to research and investigate using auditing and accounting methods to support and guide judicial consultation in proving facts, discovering accounting errors, and reaching a fair and appropriate resolution of the dispute for the parties involved.

1.2 General Definition: Judicial accounting expertise is considered a branch or category of judicial expertise. In general, judicial accounting expertise is the task ordered by the judge to a person called the judicial accounting expert, with the aim of achieving one of the following objectives⁸:

- Supporting and increasing the reliability of judicial consultations;
- Considering the testimony of the expert entrusted with the expertise task;
- Working to resolve disputes between conflicting parties;
- Contributing to concluding negotiations and discussions in commercial matters;
- Investigation questions to be directed based on financial evidence, contributing to their legal formulation;
- The presence of the judicial accounting expert during the investigation process, reformulating questions, and adding other questions after reviewing those interrogations;
- Supporting lawsuits;
- Analyzing and evaluating commercial transactions;
- Enhancing and assisting judicial review to strengthen and reinforce control mechanisms and identify material weaknesses in financial control systems;
- Judicial review can improve efficiency by identifying areas of loss;
- Judicial review helps detect and document conflicts of interest by providing a sound basis for truthful information that can be used to assist in dispute resolution⁹;

Types of Judicial Expertise

There are several types of judicial expertise that fall under the classification approved by the Algerian legislator, which is based on the chronological order of preparing the expertise. Therefore, there are several types, which will be mentioned as follows:

1 -First Expertise: This is absolute expertise, ordered by the court for the first time in case of lack of knowledge or understanding of technical problems, or when such problems exist in one of the matters before it to resolve the dispute based on specific circumstances or conditions. It is assigned to one expert or a group of experts based on the type of expertise ordered, its nature, or its subject¹⁰. Typically, this expertise is confined to a single technical point, such as ordering the appointment of a real estate expert to demarcate boundaries between neighboring properties. Here, the court needs one expert to inspect the disputed property without needing to appoint more than one expert¹¹.

2 -Second Expertise: This is expertise in the same case but related to completely different matters and points from those addressed by the first expertise. It is also assigned to one expert or several experts, depending on the importance and nature of the subject of the expertise itself. It is worth noting that it may be assigned to the same experts who performed the first expertise¹².

3 -Counter-Expertise (la contre expertise): "This occurs when the judge finds that the expert reports presented to them are contradictory, or that they have reached different compensation assessments, or that the judge finds the proposed solution in these reports unfair. In this case, the judge can order a counter-expertise, the subject of which is to verify the correctness of the data, the validity and truthfulness of the results, and the conclusions of the first expertise, by means of one or several experts"¹³.

4 -New Expertise (la nouvelle expertise): "This is expertise ordered by the judge when they reject the first expertise in all its aspects for any reason, such as nullity due to non-compliance with essential procedures, for example"¹⁴.

5 -Complementary Expertise (l'expertise complémentaire): "This is expertise ordered by the judge when they find a deficiency in the expertise presented to them, or that the expert did not perform their task in the best possible way, such as failing to answer all the questions and technical points for which they were appointed, or that they did not adequately investigate and inquire. The judge orders it to complete this noticeable deficiency in the report"¹⁵. This expertise is assigned to the expert who conducted the original expertise or to another expert, depending on the discretionary authority of the judge.

"This occurs when the judge finds that the expert reports presented to them are contradictory, or that they have reached different compensation assessments, or that the judge finds the proposed solution in these reports unfair. In this case, the judge can order a counter-expertise, the subject of which is to verify the correctness of the data, the validity and truthfulness of the results, and the conclusions of the first expertise, by means of one or several experts"¹⁶.

Table No. (I_2): The difference between judicial review and external review¹⁷

Criteria	Judicial Review	External Review
Objective	To identify illegal and suspicious areas that represent an environment conducive to fraud	To provide a report presenting a neutral technical opinion on the truthfulness of the activity and the sincerity and fairness of the financial statements.
Scope	Deeper and less broad	Broader and less deep.
Required Skills	Specialized and integrated skills in accounting, auditing, and legal policies.	Skills required for preparing and presenting financial statements.
Methods and Procedures	Deeper.	Less deep
Legal Knowledge	Requires comprehensive knowledge.	Requires limited knowledge.

Source: Ghoneim, M. R. Y. (n.d.). Towards an integrated framework for using judicial review in preventing and detecting fraud in the Egyptian environment (Master's thesis, Accounting Department, Faculty of Commerce, Benha University, Egypt), p. 34.

2. Objectives of Judicial Accounting Expertise (Forensic Accounting):

There are many objectives that forensic accounting can achieve, especially in solving difficult and perplexing problems that are hard to resolve through internal or external auditing. These include collecting financial evidence used in courts to settle disputes or to support claims for compensation for losses, striving towards achieving justice and equity. Among its most important objectives are the following:

- Providing financial and accounting information for legal purposes, serving as the bridge connecting the accounting system with the legal system, and thus providing accounting analysis prepared according to the needs of the judiciary and courts to resolve dispute lawsuits.

- Identifying illegal areas or activities and those most risky in the workplace, collecting important evidence, and presenting a report containing a neutral technical opinion to help consider lawsuits and resolve presented problems.

- Providing specialized forensic accountants who possess integrated knowledge of accounting, auditing, and investigative skills, in light of legal knowledge, to act as experts and advisors in resolving lawsuits¹⁸.

- Verifying alleged claims by relevant parties, such as those related to commercial and economic losses, disputes between shareholders and partners, accident and insurance claims, business interruption, employee fraud, professional negligence, mediation and arbitration, verification of money laundering operations, bribery crimes, and tax evasion.

- Conducting analysis and verifying the validity of calculating the amount of compensation claimed before the court, if required. Here, the forensic accountant may be sought by one of the parties in dispute, whether the aggrieved party or the party that caused the harm.

-Serving litigation processes through two main areas: lawsuit support and investigation, and dispute resolution before reaching trial. The most important areas of litigation services relate to damages from loss of profits, loss of value, cash flow, embezzlement, reorganization, and document management.

-Preparing necessary information to analyze, interpret, summarize, and present complex financial data, and using communication evidence such as reports and supporting documents in legal proceedings, including testifying in court and preparing visual aids to support evidence in courts.

-Providing initial advice in various economic and financial fields.

-Intervening before fraud occurs to prevent or deter it by supporting and developing internal control systems based on previous experiences¹⁹.

Thus, we see that the objective of forensic accounting is to investigate and discover the truth, thereby meeting the needs of all individuals, institutes, and business organizations for the purpose of collecting financial evidence used in courts to settle disputes, or to support claims for compensation for losses, and striving towards achieving justice and equity between disputing parties.

3. Types of Judicial Accounting Expertise:

Judicial accounting expertise has several types based on the cases presented, which may be in the civil, commercial, criminal, or administrative divisions. These types and examples of related cases are addressed as follows:

3.1 Judicial Accounting Expertise in Administrative Matters:

"The competent administrative court may order expertise either on its own initiative or at the request of the taxpayer or the tax director."²⁰

"In administrative cases, we find that the majority of matters presented before the judiciary, which occupy the forefront in terms of frequency, are tax disputes. These are fundamentally disputes involving accounting aspects, requiring the intervention of a judicial accounting expert to clarify the doubtful and ambiguous aspects concerning them."²¹

"Expertise is considered one of the known means of proof before the administrative judiciary. Articles 125 and 130 to 133 stipulate that the judge is permitted to order it on their own initiative, or at the request of one or both parties. The order containing it must be in writing. The competent judicial authority may refuse to appoint an expert if requested by one of the disputing parties, especially if the matter does not necessitate resorting to expertise."²²

"The appointed expert specifies the day and time for commencing operations, notifies the relevant tax authority, as well as the complaining party. Due to its importance, this type of expertise will be detailed as follows²³:

-Tasks of the Judicial Accounting Expert in the Tax Field

The expert examines the supporting documents they are permitted to examine by the judicial authority. These documents relate to the accounting and all transactions conducted by the taxpayer, including invoices, other receipts, and papers that can be relied upon to calculate the tax.

There are several aspects that necessitate conducting expertise in this category of matters²⁴:



-Absence of regular accounting according to Article 9 of the Commercial Code, which contains incorrect and repeated information in accounting operations, and the presence of errors or omissions. Here, the accounting is rejected, the determined tax is imposed automatically and sent to the taxpayer to provide their observations, and the tax administration responds to them. The task of the judicial accounting expert appears in verifying the taxpayer's doubts and whether they violated the provisions of tax legislation, whether substantive or procedural. The legal aspect is left to the administrative judge, while the purely technical aspect is entrusted to the expert and relates to the method of calculating the tax and extracting the amount paid to the tax administration.

-Declaration not conforming to the truth and the taxpayer's activity. The tax authority usually rejects incomplete declarations that do not correspond to the truth, and this becomes the subject of dispute between the two parties. The dispute typically arises around the declaration of business turnover, as well as matters concerning tax administration disputes with companies, as follows²⁵:

- Professional Activity Tax (TAP);
- Value Added Tax (VAT);
- Property Tax;
- Corporate profits and the tax imposed on these profits and revenues generated within the framework of the company's activity.

3.2 Judicial Accounting Expertise in Civil Matters

The matters in which the judge may seek the assistance of a judicial accounting expert vary due to the numerous disputes brought before the judiciary. Among these disputes are the following²⁶:

3.2.1 Dispute in a Civil or Commercial Company: A company is a contract whereby two or more natural or legal persons undertake a joint contribution by providing a share of work or money, aiming to share profits or achieve a common goal (economic benefits).

"Disputes arise between partners regarding the method of managing the company, spending its funds, or conducting an activity that harms the company or does not aim to achieve the purpose for which it was established, or misusing or neglecting funds. Hence, any partner concerned with the company's purpose has the right to file a lawsuit before the competent court to put an end to these behaviors and actions and restore the company's activity to its normal state. The judge may seek the assistance of an accounting expert, defining their task as a judicial expert. The tasks of the judicial accounting expert are multiple depending on the matters raised by the partners and the task assigned to them by the judge."²⁷

3.2.2 Lease: Here, the judicial accounting expert is obliged to follow what is stated in the definition of their tasks; otherwise, their task is void, and the results of their expertise are not considered. A dispute may arise over the rental price, where the lessor wishes to increase the rent while the lessee refuses.

Subsequently, the lawsuit is filed before the court (civil division). The judge appoints an expert to determine the fair rental value. The expert's task consists of the following²⁸:

- Summoning the adversaries and hearing their statements;
- Moving to the leased property (premises), inspecting it, and determining its area and location;



- Reviewing all documents, including rent receipts, title deed, and others;
- Determining the real rental price by referring to the legal texts applicable to this dispute, focusing on the criteria and elements taken into consideration;
- Finally, the expert concludes their task by suggesting a price appropriate for both parties based on the previously mentioned data;
- The expertise remains subject to discussion between the disputing parties until a final judgment is issued by the judge, which puts an end to the dispute before them.

3.2.3 Commercial Lease Contract: "If the dispute concerns a commercial lease contract, it is governed by Articles 169 et seq. of the Commercial Code. If the owner and tenant take a position regarding the renewal or non-renewal of the lease contract after serving notice, the expert must study the commercial and industrial factors on one hand, and calculate the costs imposed on the tenant on the other hand."⁶

Taking into account the following²⁹:

- The expert must study the industrial and commercial factors, considering the importance of the city, neighborhood, street, location, nature of exploitation, and facilities in the premises;
- Calculating the costs imposed by the lease contract on the tenant;
- The expert must calculate the depreciation of currency value;
- The age of the premises and its equipment;
- Costs borne by the tenant, such as electricity, etc.

3.3 Judicial Accounting Expertise in Criminal Matters:

Expertise in criminal matters begins from the observation of the crime. An expert is appointed for certain violations that always result in harm to others and require compensation.

Among the most prominent disputes in criminal matters, we find accounting cases and the disbursement of public funds, which occur frequently and repeatedly in judicial authorities.

3.3.1 Judicial Accounting Expertise in the Crime of Embezzlement and Misappropriation of Public Funds³⁰

A specialist expert in the field of accounting is appointed by virtue of their specialization to conduct judicial accounting expertise regarding the embezzlement of public funds or their unlawful disbursement, which are classified under criminal cases.

"Regarding misappropriation: it is the destruction of money, disposing of it by sale, or an act that transfers money from the possession of its owner to the possession of another permanently and unlawfully.

As for unjustified possession, it differs from transfer, misappropriation, and embezzlement, whereby the accused seizes money or property in their possession by virtue of their position, then withholds it or refrains from spending or using it for its designated purpose without right or legal justification.

As for embezzlement: it is the accused taking money or property in their possession by virtue of their position, without the owner's knowledge or consent, with the aim of owning and permanently controlling it."

II: Nature of Tax Disputes

First, we must indicate what is meant by the term "disputes" before addressing the various definitions related to tax disputes.

1. Dispute: "It means a conflict or disagreement, and its purpose is everything that is contested. It is of Latin origin, as we say 'juridication contentieux,' meaning a contested judicial dispute."³¹

-The word "dispute" in the tax field: "It is a term with two meanings. One is used for problems arising between the taxpayer and the tax authority regarding how tax is imposed and methods of collection. The other concerns a specific situation that may befall the taxpayer, such as financial incapacity. Here, the latter requests the tax administration to modify the tax imposed on them."³²

" -A tax dispute is everything resulting from any disagreement between taxpayers and the tax administration that can be resolved through administrative or judicial procedures."³³

-Tax dispute in its narrow sense: "As a disagreement between two parties, the taxpayer and the tax administration, each having a position contrary to the other's position before the judicial authority to resolve the dispute between them by issuing an enforceable and binding judgment for both parties."

-In a broader sense, tax dispute is defined as "the set of legal methods by which disputes arising from the imposition of tax law by the tax authority on the taxpayer are resolved."³⁴

-Tax litigation: "The taxpayer and the tax administration dispute with the aim of either correcting errors resulting from the tax base and/or the method of its calculation, or benefiting from the legal deferment of payment."³⁵

-Tax disputes: "Those that contest the correctness or legality of imposing tax on the taxpayer, even if the tax in dispute is related to regulations and laws."³⁶

" -A tax dispute arises due to the taxpayer's refusal to pay what the tax administration has imposed on them, or in the case of tax evasion by one of the means, including tax fraud."³⁷

2. Expert Procedures in Tax Disputes

If the taxpayer considers themselves wronged and feels that there is injustice against them, they submit their grievance to the competent judicial authority to consider and adjudicate the dispute. Hence, the judicial authority appoints a judicial accounting expert, who is considered a certified judicial expert affiliated with the Ministry of Justice, to undertake the follow-up and reconsideration of the dispute between the taxpayer and the tax administration. The latter completes the expertise entrusted to them by the judicial authority to resolve the tax dispute, the cause of which is an error in an accounting matter, by conducting the necessary operations and calculations to clarify and determine who is right, and everything related to irregularities associated with auditing and accounting.

2.1 Receiving the Expertise Task

The judge appoints a judicial accounting expert to complete the expertise entrusted to them. The latter begins performing what they are assigned based on a decision issued by the judicial authority, which handed them the appointment decision. The decision contains the name and address of the judicial accounting expert tasked with performing the expertise, and specifies what is required of them and what they must do. The expert's acceptance of their task

is usually implicit, occurring when the latter contacts the parties to the dispute and notifies the adversaries of the day and time they will conduct the expertise.

Before the judicial accounting expert commences the task entrusted to them, the judge grants them an advance, which is a sum of money as close as possible to the potential final amount of the expert's fees and expenses. The party that requested the expertise bears this burden and pays it within the time specified by the judge.

2.2 Executing the Expertise Task

After receiving the expertise decision, the expert summons the parties to the tax dispute, hears and records their statements, and reviews the accounting documents related to the problem in dispute submitted by each party. This is done to estimate the amount of taxes due from the complainant, re-examine all operations by performing the necessary calculations to determine who is right in order to resolve the tax dispute between the parties, and verify various violations and irregularities related to the accounting aspect. In reality, the conduct of expertise is not governed by strict procedures as long as the judicial accounting expert has complete freedom in how to perform their task. They are obligated to verify the facts related to their scientific and technical field. The judicial accounting expert is prohibited from delegating others to perform expertise work and is bound by professional secrecy.

2.3 Preparing the Report and Depositing it with the Registry

As a final step, the judicial accounting expert deposits their report, which must be in writing, with the registry of the competent judicial authority, taking into account the pre-determined time frame. The report is then studied and discussed, and the judge uses it to make the appropriate decision to resolve the tax dispute between the first party (the tax administration) and the other party (the taxpayer). "Preparing the report is considered one of the most important obligations incumbent upon the expert. Most foreign and Arab legislations have obligated the expert to organize a report showing the results they reached during their research, the work they performed in executing the task entrusted to them. The purpose of organizing the report is to enable the judge and the adversaries in the tax lawsuit to review the procedures and steps followed by the judicial accounting expert."³⁸

2.3.1 Content of the Report

The expert report includes the statements and observations of the parties to the dispute and their documents, an analytical presentation of what the expert did and observed within the limits of the task assigned to them, and the results of the expertise. The report has a personal character because it expresses the expert's point of view. It must also be characterized by decisiveness and certainty, as judgments are not built on doubt. This report contains two types of information: information related to the statements, observations, and documents of the parties to the dispute, and the work done by the expert, which the adversaries may access. The second type of information is presumed confidential, relating to the results of the expertise. The judicial accounting expert is obliged to appear before the competent judicial authority. The purpose of their appearance is to provide oral supplementary clarifications. Failure to appear is considered a professional error.

2.3.2 Authority of the Expert's Report

The judge's freedom to appoint an expert or not is governed by their need for assistance from a specialized technician to clarify ambiguous points and facts of a scientific or technical

nature. However, the judicial accounting expert's report remains non-binding on the judge, who may adopt it, exclude it, or adopt only a part of it.

3. Steps Followed by the Accounting Expert to Complete the Entrusted Expertise:

-Step 1: Receiving the task through a decision issued by the court of jurisdiction.

-Step 2: Performing the expertise tasks

- Receiving the accounting documents in dispute from both parties.
- Moving to the company's premises to inspect the accounting documents.
- Calculating the value of taxes evaded.
- Providing all clarifications and all documents relied upon.

-Step 3: Completing the expertise work

- Summary of the report;
- Determining fees and expenses;
- Depositing the report with the registry.

4. Content of the Expertise (Report) (le rapport d'expertise)

If the expert completes their task, they must submit a report containing the results of their work, clarifying their own opinion and all information related to the task assigned to them. It should be noted that Article 49 of the Code of Civil Procedure permits the presentation of expertise orally in session. In this case, the session clerk records the expert's statements in the session register. However, this method is rarely used because the rule is the written report.

The expert is required, after writing the expertise report, to sign it and then deposit it with the competent authority. But before that, what is the content of the expertise?

4.1 Content of the Expert Report

The expert's report is a document intended to enlighten the judge's opinion and enable them to adjudicate and decide on the dispute presented. Therefore, it must be written in a systematic, clear, and precise manner:

4.1.1 Format of the Expert Report: The Algerian legislator did not specify the manner in which the report submitted by the expert upon completion of the task for which they were appointed should be written. The legislator left the expert the freedom to organize the format of the report personally, which varies according to their work, reflecting their ability to arrange, be precise, clear in formulation, and logical in presenting facts and results, ultimately expressing a personal opinion on the technical matter subject of the expertise.

However, professional traditions and judicial custom have established some important and fundamental rules that the expert must mention and respect when writing and drafting the written report. The expert is obliged to submit a detailed report on the work they performed, the results they reached through the expertise operations, and the methods they relied upon to reach the opinion mentioned in the report, which is subject to the judge's authority as the primary expert.

The process of drafting the report is one of the final stages of the expert's work. During the drafting of their expertise, the expert must observe certain formal procedures. They may draft their expertise at the location of the dispute or in their office. It is not necessary for the disputing parties to be present or notified at the time of writing the report or to place their signatures on it, unless it includes new procedures and statements not contained in the minutes of work³⁹.

If the situation requires the presence of an interpreter, the expert may seek the assistance of an interpreter, provided that the latter has taken an oath, meaning they are among those accredited by judicial authorities.

4.1.2 Content of the Expert Report: In terms of its content, like the format in which it is prepared, the expert report is not subject to any mentioned conditions. Nevertheless, to achieve greater effectiveness for this report, the expert must adhere to a sufficient degree of discipline. Therefore, the expert report must include the following elements:

- Preamble: In this part, the expert presents the preliminary information, namely:
 - Mention of the facts of their appointment, their name and surname, and the exact address of their office;
 - Identification of the parties and their representatives;
 - The source that ordered the task (whether the judgment or decision), the authority that issued it, the date, case number, and index number;
 - Mention of the date the expert received the judgment appointing them and the name of the adversary who handed them the appointment decision;
 - Defining the nature of the technical task to be performed.
- Presentation of Facts: The history of the occurrence of facts and their precedents.
- Description: It includes the presentation of events and circumstances that necessarily form the basis for the results. In this part, the expert addresses the description of the inspections they conducted, indicating their impact on the issues of the dispute. They define the places where the expertise work was conducted, mention the presence of experts and their conduct of that work themselves, and the presence or absence of adversaries and their representatives.
- Discussion: This is the critical part of the report, in which the expert compares and matches the various circumstances with the inspections they were able to conduct, indicating what may be adopted and what should be excluded.
- Results: These are the logical consequences of the objective facts and discussion, which theoretically must answer all the issues raised. The expert's report should be as objective as possible, and the expert should not have any preconceived ideas. The expert report must also be clear and complete, and the expert should avoid technical jargon. The Algerian legislator did not specify the language in which the expert drafts their report.
- Date and Signature: After the expert finishes drafting their report, answering the question presented by the judicial authority that appointed them, mentioning the sources they used to obtain their information, responding to the objections and observations of the parties after they reviewed the documents submitted to them, and deeming their report ready, the expert must sign and date the report before placing it with the competent authority.
- Documents Attached to the Report: The expert must attach to their report various documents that help clarify and explain the results they reached, such as drawings, statements, explanatory diagrams, account statements, records, and other documents and items appropriate for each expertise.

4.2.3 Deposit of the Expert Report

The deposit of the report is not subject to a specific formality. Article 49 of the Code of Civil Procedure states: "The oral report is given in session. If the report is written, it is deposited with the court registry and communicated to the parties before the case is called."¹⁷

Therefore, the expert is obliged to submit their expertise report to the competent judicial authority that appointed them, within the specified period. The expert may deposit their expertise report after the specified period has elapsed.

1) **Deposit of the Expert Report within the Specified Period:** The original copy of the report is deposited with the registry of the judicial authority that appointed them for expertise. The parties are notified before the summons for the lawsuit. After depositing the report, it is officially registered in a dated and signed register. The report is deposited by the expert themselves, who is solely responsible for it until the date of its deposit. They may send their report by registered mail. The expert may add some additions or corrections, provided that this additional report does not contradict or conflict with the opinion contained in the first report, but rather is a complementary or clarifying report to the main report, such as correcting some material errors that occurred in the report. It is the expert's duty to inform the adversaries of this deposit so that they may review the results of the expert report and discuss the opinion reached by the expert.

2) **Deposit of the Expert Report outside the Specified Period:** Article 51 of the Code of Civil Procedure states: "If the expert refuses to perform the work assigned to them or an impediment occurs, they shall be replaced by another by order. An expert who accepts the task then does not perform it, or does not complete their report, or does not submit it within the time limit set by the judge, may be ordered to pay all expenses wasted, and if necessary, ordered to pay compensation, and shall be replaced by another."⁴⁰

For the expert who delays submitting their report to the competent authority within the specified period without a valid excuse, the following measures are taken⁴¹:

-If the expert refuses to perform the task assigned to them, they may be replaced by another.

-If they accept to perform the task, then do not perform it and do not submit their report within the specified period, they may be ordered to:

- Pay all expenses wasted;
- If necessary, pay the compensation requested by the adversaries if the judicial authority deems there is cause for compensation;
- Be replaced by another expert.

III: Study of a Sample of Judicial Accounting Expertise from an Auditor's Office

We will first address the various applied cases, providing a preliminary picture of each case, attempting to clarify them and identify the features of the main problem in each. Then, we will highlight the most important steps followed by the expert in completing the task entrusted to them by the judicial authority that requested it, as follows (the names of the parties to the dispute will not be mentioned; instead, pseudonyms will be used due to the confidentiality of the information obtained).

Expertise	Parties to the Expertise	Key Steps Followed by the Expert
	- Between: The subsidiary company of "Al-Jawdah Mills" and its client, the	- Receiving the tasks through a decision issued by the Judicial Council of Batna Province.



<p>Expertise 1</p>	<p>limited liability company for the distribution of flour and its derivatives called "Salem Brothers". The latter used to purchase materials from its supplier without relying on supporting documents (invoice, purchase order, delivery receipt, etc.), but rather relying on a so-called "waybill" containing the quantity of goods received and delivered to its owner with the signatures of both parties. A dispute arose between the two parties regarding the quantities supplied, and an expert was consulted to determine who is the creditor and who is the debtor.</p>	<ul style="list-style-type: none"> -Summoning the disputing parties by registered letters with acknowledgment of receipt to attend his office, accompanied by the documents related to the dispute. -Hearing the statements of the representatives of the two companies. -Reviewing the accounts of both parties regarding the quantity of materials actually supplied to "Salem Brothers" company (semolina flour, bread flour, regular semolina, bran, and premium semolina), clarifying the prices of the various materials and the changes that occurred in the price per quintal, in addition to transportation costs and the cost of plastic bags. -The expert clarified the payments made by the client ("Salem Brothers" company) through cheque numbers, dates, and amounts. -Calculating the difference in the amount paid, with a surplus in favor of the supplier ("Al-Jawdah Mills.") -The expert finally clarified that this amount must be paid in favor of "Salem Brothers" company and is considered a debt owed by the subsidiary company of "Al-Jawdah Mills", as stated in the conclusion of the expert report. -Determining the fees and expenses and the method of their calculation. - Placing the report with the registry of the Judicial Council.
		<ul style="list-style-type: none"> - Receiving the tasks by virtue of a decision issued by the Judicial Council of Biskra. -The institution, represented by its manager, was summoned by a judicial officer. The representative of the



<p>Expertise 2</p>	<p>- Between a joint-stock company and one of its workers, who filed a lawsuit against it because he did not benefit from the full retirement gratuity according to the collective agreement in the institution.</p>	<p>institution attended and presented to the expert all documents related to the worker. The worker also attended and presented all documents related to his file.</p> <p>-Moving to the headquarters of the joint-stock company and speaking with the person in charge of disputes, who provided the expert with all explanations and documents related to the worker's file, especially the documents related to his work, particularly the collective agreement.</p> <p>-Studying and analyzing all documents, especially the collective agreement and the retirement gratuity decision issued to the worker, which shows that the latter benefited from this gratuity but for only 16 months, while the collective agreement stipulates 20 months. Thus, he is short by 04 months subject to social security deductions.</p> <p>-In his conclusion, the expert determined the amount of gratuity owed to the worker, the amount of income tax deduction, and the net amount payable by the institution to the worker.</p> <p>- Finally, he determined the expenses and fees of the expertise and deposited his report with the registry of the Judicial Council.</p>
<p>Expertise 3</p>	<p>- Between the limited liability company "Al-Wafa" and the Tax Directorate of Biskra Province. The judicial expert was</p>	<p>- Receiving the tasks by virtue of the administrative decision issued by the Judicial Council of Biskra, Administrative Chamber.</p> <p>-Summoning both parties by a judicial officer to conduct the expertise. Both parties attended: the representative of the Tax Administration and the representative of the company. During this meeting, the error in the decision was discovered, as the</p>



	<p>appointed and tasked by the court to correct the material error in the administrative decision issued on date .../.../2009, and to state that the audit of the plaintiff's accounting for the years 2000 and 2001 should replace 2004.</p>	<p>years concerned by the individual assessment are 2000 and 2001, not 2004.</p> <p>-The company's representative asked the expert not to conduct the expertise until the error was corrected. The error was indeed corrected, and the expert was presented with an administrative decision issued by the Judicial Council of Biskra, Administrative Chamber. The expert then completed the expertise as stipulated in the decision.</p> <p>-Studying and analyzing the documents presented to the expert, where it became clear that all taxes and fees imposed by the Biskra Tax Inspectorate pertain to the year 2000 and were imposed during 2001, noting that the company had paid all its dues during 2000, and they were re-imposed during 2001, which is an error.</p> <p>-Finally, in the conclusion of the expert's report, and through his study of all documents presented to him by both parties, he decided that everything mentioned in the individual assessment number dated .../.../2005 is incorrect and unfounded, and that there are no taxes or fees due to the Tax Administration for the years 2000 and 2001.</p> <p>- The expert determined his fees and deposited the expert report with the registry of the Judicial Council.</p>
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Conclusion and Results

Through the study of the previous expertise, it becomes clear to us that tax disputes are among the complex disputes that are difficult for the judge to adjudicate. Therefore, the judge resorts to the judicial accounting expert, who is more knowledgeable, more experienced, more competent, and more capable of resolving the dispute. It also becomes clear that the steps for completing judicial expertise consist of receiving the appointment from the relevant authority by a decision or judgment. As for the step of conducting the expertise, it varies according to the nature of the tax dispute, with the necessity of adhering to verification. The most important step is preparing the judicial expert report, which must be clear and precise, expressing any



observation the expert deems necessary, and answering all the tasks requested of them in the judgment in a detailed manner. If the expertise is unclear or does not cover all the aspects required in the judgment, the judge may remand the expertise to prepare a complementary expertise that is clearer and more comprehensive. The necessity for precision in the content indicates the importance of this judicial expertise for the judge and the extent of its contribution to adjudicating the tax dispute.

1. Judicial accounting expertise is an arduous process that consumes a great deal of effort and, even more so, time. Judicial procedures and the steps for practicing expertise require reconsideration to accelerate them, especially in matters with financial impact, including tax disputes.
2. The expert must exercise the utmost care in resolving the tax dispute and not lean toward any of the adversaries, so that there is trust between the disputing parties in justice and trust from the judge toward the expert they resort to.
3. The increasing need for the services of these judicial experts requires them to pay attention to training that qualifies them to practice this work.
4. "The absence of pre-defined rules or standards that can be applied in all cases or issues adopted by forensic accounting explains the existence of several techniques that it uses to confront creative accounting practices. This is confirmed by the practical aspect of the research."⁴² The same holds true in the case of tax disputes.
5. The mechanisms for contracting with various experts in all fields, especially accounting, are surrounded by much doubt regarding the quality, integrity, competence, and commitment of these experts in performing their task convincingly and professionally.
6. The steps and procedures for executing judicial accounting expertise differ in some procedures, but in general, they have a fixed path and steps that make their features and performance methods clear.
7. Through all the expertise experiences, it is found that it is very effective in resolving tax disputes, thus contributing to achieving good results for justice while attempting to satisfy the parties according to applicable law.

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