

Law No. 15-97 enacting the Public Debt Recovery Code

Reference: Dahir No. 1-00-175 of 28 Muharram 1421 (3 May 2000) promulgating Law No. 15-97 enacting the Public Debt Recovery Code

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Practice areas: Administrative law, Business law

The Public Debt Recovery Code governs the recovery of taxes, levies, fines and other debts owed to the State, local authorities and public institutions: tax rolls and enforceable instruments, late payment surcharges, formal demand, attachment, third-party holder notice, joint liability of company directors and limitation periods.

Amicable and enforced recovery

- After the due date, the public accountant sends a final notice free of charge, then initiates enforced recovery: formal demand, attachment of movable property, sale, attachment of real property.
- The third-party holder notice (ATD) allows sums held by the debtor's banks, employers or customers to be seized (Art. 100 et seq.).
- Directors and managers may be held jointly and severally liable for the company's taxes in the event of fraudulent conduct.

Safeguards for the debtor

- The debtor may request payment facilities and challenge enforcement measures before the summary proceedings judge or the Administrative Court.
- The recovery action is time-barred after four years from the date the debt was issued for collection (Art. 123), subject to any acts interrupting the limitation period.
- A formal objection to the tax assessment is governed by the tax procedures and does not halt recovery unless security is provided.

Key articles

ART. 100

Depositories, holders or debtors of monies belonging or due to debtors are required, upon request made to them by third-party holder notice, to pay on behalf of the debtors the funds they hold, up to the amount of the sums due.

ART. 123

The action for recovery of public debts is time-barred after four years from the date on which they were issued for collection; the limitation period is interrupted by any act of enforced recovery and by any acknowledgement of debt.

Points to watch

- A third-party holder notice on a bank account may be challenged in summary proceedings if it is irregular or concerns sums that are exempt from attachment.
- Check the limitation period: a late formal demand, or a debt more than four years old with no interrupting act, may be challenged.
- Directors must respond quickly to any claim of joint liability: the burden of proving the absence of fault lies with them.

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