

# TAX EVASION, CORRUPTION AND TAX ADMINISTRATIVE MANAGEMENT

ORLANDO CARMELO CASTELLANOS POLO <sup>1</sup>, JOSE ALEXANDER VELASQUEZ OCHOA <sup>2</sup>, ANDRÉS FELIPE SANMARTIN SANMARTIN <sup>3</sup>, DAVID ALBERTO GARCÍA ARANGO <sup>4</sup>

Corporación Universitaria Americana<sup>1</sup>

Corporación Universitaria Americana<sup>2</sup>

Corporación Universitaria Americana<sup>3</sup>

Corporación Universitaria Americana<sup>4</sup>

ocastellanos@americana.edu.co <sup>1</sup>

jvelasquez@coruniamericana.edu.co <sup>2</sup>

asanmartin@americana.edu.co <sup>3</sup>

dagarcia@coruniamericana.edu.co <sup>4</sup>

**Abstract** - Tax evasion is an element in the Colombian government that jeopardizes the tax collection of the National Tax and Customs administrations, for the correct execution of the Nation's public budget, for the execution of social programs for the population and spending public, however, the situation arises because taxpayers somehow have the notion that the Government does not adequately manage public resources due to a tax administration immersed in corruption scandals. The tax administration must comply with the control of tax inspection to determine the tax sanctions for tax non-compliance and tax benefits of the tax standardization of taxes, obtaining positive results on the collection of resources, the development of the research was of a mixed approach while analysis was carried out with quantitative variables and qualitative categories. Regarding the quantitative aspect, using the database of gross collection statistics by section and type of tax and cross-referenced with x-ray data of corruption by departments, the results of the investigation show that there is a negative effect on the bribes paid to supervisory auditors, greater corruption decreases the level of compliance of the administration and affects the image of the entity.

**Keywords:** Tax inspection; corruption; evasion; administration; taxpayer.

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## INTRODUCTION

The Colombian Government through the Ministry of Finance of Public Credit and the subscribed entity the Directorate of National Taxes and Customs, have been immersed in processes of public scandals, due to issues of lack of control over the control of companies due to tax evasion, those that do not allow tax collection of taxes. Tax evasion consists of illegal practices that are usually used by taxpayers against tax regulations, not allowed, with the aim of reducing tax payments, not declaring assets, increasing costs and expenses without any support, Alm & Torgler, (2011); Khelif & Achek, (2015). Situation that jeopardizes the execution of the Nation's public budget for the development of administrative expenses and the different social programs.

### Tax evasion

Tax evasion is a problem that occurs in the countries, affecting the collection of taxes, previous studies have tried to perform the numerical quantification of tax evasion but it has not been conclusive in the cases, likewise, very few studies have examined tax evasion from an institutional context Schwarzenberger and Kirchler (2012), Alon & Hageman, (2013), Lin et al; (2017); Yamen et al; (2018), and Bradshaw, Liao and Ma (2018), ask for more responses on research on the influence of the institutional instructor on tax evasion. Due to the lack of information from the tax administrations, which normally do not report this type of information in great detail, or in some cases there is not enough



installed capacity of tax auditors to audit taxpayers, if not through random samples, not reaching the current panorama of one hundred percent of the taxpayer population, of those who evade taxes, do not declare having the duty to comply with formal and substantial obligations, and finally those who are not registered or located by the tax administration, in other cases due to the necessary control tools of information technologies. According to ECLAC studies (2020) "Tax evasion represents an estimated tax loss of 325,000 million dollars in 2020, the equivalent of 6.1% of GDP.

### **Tax administration**

The new current trends require that the administrations study the new modalities that are presented in the business field on tax discrimination of tax networks, new forms used by tax evaders through computer systems, or tax planning structures. aggressive, which do not allow the adequate collection expected by the state with the projections of the taxes to be collected. Alm & Torgler (2011), determine that Government institutions, the congresses of the republics where laws are approved, the tax administration, the Ministry of Finance of Public Credit, can dissuade taxpayers from evading taxes through the legal regulations that are aggressive, such as the imposition of tax and criminal sanctions, Hasseldine & Li (1999).

However, the tax administration presents internal problems not only with taxpayers, but also with tax auditors from medium and high positions of public office, who have been immersed in tax corruption scandals for receiving bribes, affecting in a certain way the collection of taxes correctly from taxpayers, studies that have analyzed the tax problem of corruption such as Krueger (1974), Ades and Di Telia (1994), Kraay and Van Rijckeghem (1995), Haque and Sahay (1996), and Sachs and Warner (1995). They point out that some individuals try to obtain jobs not in the areas in which they can be more productive, but in the areas in the entities in which, legally or illegally, there is a greater probability of obtaining income, according to Chu (1990), Bowlez (1999) Wane (2000) and Vasina (2003), establish that different alternatives are presented to the salary of tax auditors, in a corrupt administration managed by auditors in enforcing tax regulations increases tax evasion since the penalty decreases, in tax audit processes, caused by personal benefits of the official with monetary benefits, Sanyal (2000), Hindriks et al. (1999) and Besley and McLaren (1993), determine the behavior of tax auditors involved in corruption and the impact of the rewards received. in a corrupt administration managed by auditors, in enforcing tax regulations, tax evasion increases since the sanction decreases, in tax examination processes, caused by personal benefits of the official with monetary benefit, they determined the behavior of tax auditors involved in corruption and the impact of the rewards received.

The two variables of the auditor's salary and detection in the tax audit process cause bribery to originate due to moral conditions, these actions put at risk the good administration of the tax department for the control of inspection, collection and tax procedure to taxpayers, directly affecting the public finances of the nation in a certain way. Therefore, the two variables must be analyzed, the taxpayers who decide what part of their income the tax authority declares and the tax inspection official who may be affected by different factors such as: Corrupt or honest. Taxpayers are faced with the choice of risks in the tax strategies they adopt, know the tax regulations.

### **METHODOLOGY**

The development of the research was of a mixed approach while analysis was carried out with quantitative variables and qualitative categories. Regarding the quantitative aspect, using the database of gross collection statistics by section and type of tax and cross-referenced with the X-ray data of corruption by departments in order to obtain a database containing 496 records from the different departments of Colombia for a period between 2005 and 2020.

The variables considered in the study were:

YEAR, SECTIONAL ADDRESS (Name of the department), AMOUNT OF CASES (corruption cases for the year in the department in question), RENT QUOTAS, VAT DECLARATIONS, WITHHOLDINGS, EXTERNAL, DEMOCRATIC SECURITY, HERITAGE, WEALTH, TRANSFER PRICING, GMF, CONSUMPTION, GASOLINE AND ACPM, CREATE, WITHHOLDS BELIEVE, STATEMENTS TO SIMPLE CARBON, NORMALIZATION, CONSUMER GOODS, VAT\_EXTERIOR TO BE CLASSIFIED, TOTAL (Total collection).

Subsequently, an analysis by principal components was applied, which allows to identify the contributions of the variables to the understanding of the variation of the data, the respective identified factorial loads allow to know the contribution of each variable to the increase of the others. In this case, an oblimin factorial rotation was additionally performed, with which the different contributions of the factorial loads were clearly identified.

Based on the scores obtained for each variable, it is possible to build a model, as can be seen in equation 1.

$$X_j = w_{1j}Z_1 + w_{2j}Z_2 + \dots w_{pj}Z_p \quad \forall j = 1, 2, \dots p$$

Equation 1. Relationship between the factor loads, the factors and each variable in the model, the output variable is the total collection.

In this sense, the factors that contribute the most to the understanding of this variable will be identified, later, when identifying the factor that contributes the most in terms of understanding the phenomenon of study, an equation is generated in which the other variables are related. with their respective weight or factor load, as observed in Equation 2.

$$Z_j = c_{j1}X_1 + c_{j2}X_2 + \dots c_{jp}X_p \quad \forall j = 1, 2, \dots p$$

Equation 2. Relationship between factor loadings for variable face and understanding of the factor of interest

The model, thus developed, will allow the generation of a construct for understanding the relationships between the variables, where the level of incidence of corruption cases in collection in Colombia will mainly be investigated.

## RESULTS

### Legal

Talking about the subject of corruption implies understanding the way in which human relations are configured at an economic, social, political and even ideological level, due to the fact that from the same way in which this phenomenon has been conceived from Greece and Rome to Today, it contextualizes an improper act that generates negative effects not only on those who carry it out but also on those who suffer from it within state institutions, organizations and structures.

Well, the panorama of corruption in Colombia can be seen from different sources. One of these stands out in criminal matters regarding the commission of crimes against the public administration, for example, the existence of embezzlement when a public official is preached the act of taking advantage of State assets, companies or institutions for himself or for others. However, there is also talk of the existence of Bribery when an official for the delay or omission of an act in charge of him receives remuneration for himself or for another. (Congress of the Republic. Law 599 of 2000).

Next, in this same criminal sense, there are also corrupt or constitutive conducts of corruption, the improper execution of contracts, the illicit enrichment, influence peddling and malfeasance. (Cf. Congress of the Republic. Law 599 of 2000).

However, it must be taken into account that from a look at the public function in terms of administrative law, the phenomenon of corruption can be configured when a public official in the exercise of his functions fails to comply with that duty to be as an imperative to act fairly. and correct, in this sense, we speak of the Regime of disabilities, incompatibilities and impediments of public officials in Colombia, this in accordance with the constitutional assumptions, articles 127 and following of the Political Constitution of 1991, for which forms have been established in which corruption can be manifested within the State or public entities, where public officials can be involved in actions that distort the action that conforms to what is established.

Among these conducts, the following stand out: false documents, provision of inaccurate information, impersonation, unnecessary intermediation, expiration of terms, delay or lack of action, non-compliance

with schedules, absenteeism, abandonment of position, improper custody of assets, appropriation or improper use of goods delivered in the exercise of functions, among others.

In addition to the above, in tax matters, there is another source of corruption that is related to a series of acts that affect public administration and the purposes of the State, among which are: tax evasion, bribery, money laundering, omission of assets, omission of the withholding agent, among others. In this sense, these tax crimes in Colombia are conceived as affectations that generate a risk regarding compliance with the general interest.

In accordance with the above, it should be noted that in Colombia there is a wide panorama of normative sources that help to control the phenomenon of corruption. In this regard, the following image allows us to identify these assumptions:

Table No. 1 - Regulations on corruption in Colombia at the level of the fight against corruption, criminal law and public contracting.

<b>Normative foundations about corruption in Colombia - political constitution of 1991</b>		
<b>Fight against corruption</b>	<b>at public procurement level</b>	<b>At criminal level</b>
Decree number 1686/17 (regional commissions of moralization)	Law 80/93 contracting law in public administration	Law 599/2000 (Colombian Penal Code)
Decree number 124/16 (anti-corruption plan)	Law 1150/07 efficiency and transparency in contracting	Law 906/04 (Code of Criminal Procedure)
Law number 1474/11 (anti-corruption statute)	Decree 1510/13 public procurement and contracting system	Law 1142/07 (Prevention and suppression of criminal activities)
Law number (anti-smuggling law)	Decree 4170/11 public procurement agency	
Decree number 958/16 (single decree sector presidency of the republic)		
Law number 1828/17 (congressman's ethical and disciplinary code)		

Source: Own elaboration (2022)

As can be seen, these normative budgets describe the structure of the fight against corruption at the level of the public function, from a criminal orientation and from a horizon that provides for transparent contracting in Colombia.

Regulatory budgets that constitute the fundamental basis of the policy of "the fight against corruption" understood as a way of seeking to transform the duty of public administration, but also from the responsible and ethical action of citizens, due to the fact that from the constitutional orientation, the principle of general interest is identified as a good that must be protected by virtue of guaranteeing the correct use of public resources and goods.

In addition to the above, the regulatory budgets on fiscal, disciplinary, citizen participation, access to information, private matters and from the transparency secretariat are presented below, namely:

Table No. 2 - Regulations on corruption in Colombia at the level of the fight against corruption, criminal law and public contracting.

Regulatory foundations on corruption in Colombia						
At the tax level	At the information level	At the level of private corruption	At the transparency secretariat level	At the disciplinary level	At the participatory level	
Law 610/2000 (fiscal responsibility)	Decree 0019/12	Law 92/17 Law 1778/16	Presidential Directive 06/14 Decree 4637/11	Law 87/93 (internal control)	Law 134/94 Statutory Law 1757/15	
Presidential Directive 02 (May 10, 2010) (Compliance and monitoring of the function)	Decree 103/15 Decree 1494/15 Decree 1674/16 Law 594/00		Decree 1649/14	Law 1826/94 Decree 1537/01 Law 734/02 (unique disciplinary code) Presidential Directive 01 (February 18, 2015)	Law 850/03	

Source: Own elaboration (2022)

In accordance with the foregoing, it should be remembered that in matters of corruption, the DIAN also exercises fiscal control with which it seeks to guarantee security and, therefore, the protection of the economic public order of Colombia. In this regard, Decree 1071 of 1999 establishes that:

Article 4. Objective of the Entity. The purpose of the Special Administrative Unit, Directorate of National Taxes and Customs DIAN, is to help guarantee the fiscal security of the Colombian State and the protection of national economic public order, through the administration and control of due compliance with tax, customs and exchange obligations and the facilitation of foreign trade operations in conditions of equity, transparency and legality. For all legal purposes, the public service provided by the DIAN, is defined as an essential public service. (Presidency of the Republic, 1999).

Consequently, it must be stated that lately it has been presented with more relevant a problem that is related to the way in which a focus of corruption has been identified with respect to tax auditors. Indeed, the Office of the Attorney General of the Nation (2018) has been following this type of crime and in this regard has indicated that one of the cases is contextualized in tax evasion, namely it was indicated:

In the first phase of this investigation, the prosecutors in the case collected probative material to link the company Spai-Sons Pharmaceutical International Cosmetics Ltda to the investigation, whose directors apparently received advice from DIAN officials, to change the company's name. company to Spai-Sons Commerce SAS, in order to evade the debt with the Directorate of National Taxes and Customs. For this service, it has been documented that the criminal network linked the officials to the company's payroll, and allegedly paid them one hundred (100) million pesos per month for tax and income management.

In addition to the above, this same entity during the year 2020 has identified other forms of corruption that are contextualized as a crime, since, for example, the fraudulent VAT refund claim has also been commonly seen, in this regard it has indicated this corporation. These are three officials of the Directorate of National Taxes and Customs (Dian) at the time of the events, as well as seven employees and collaborators of the Company Consultants and Advisors R&B SAS. that, between 2008 and 2011, they fraudulently claimed \$16,640,296,000 Colombian peso, product of the returns of the Value Added Tax

(VAT), through the creation of fictitious export companies, without being entitled to such benefit. (National Attorney General's Office, 2020) Note that this type of problem not only affects the legal and economic security of the country, but also generates problems at the level of tax collection, constituting this type of behavior as conditions of fraud and at the same time as crimes sanctioned in the Colombian Criminal Code because they constitute crimes against the public administration, which are configured in Law 599 of 2000 from article 397 and following.

However, it should also be noted that the focus of corruption in which DIAN officials are currently involved highlights difficulties regarding problems such as tax abuse, the existence of insufficiently trained auditors, the need for technological updating, bribery of auditors and/or officials, among others.

An example of these situations is identified through Press Release No. 057 issued by the DIAN on April 24, 2022, where it stated in this regard that:

In a joint operation, the National Police through the Tax and Customs Police (POLFA), in coordination with the Directorate of National Taxes and Customs (DIAN), the Office of the Attorney General of the Nation, the Investigations Agency Homeland Security (HSI), Immigration and Customs Enforcement (ICE) and the FBI of the United States, dealt a blow to corruption with the arrest by court order for the purpose of extradition of the Colombian citizen Omar Ambuila, former DIAN official, who worked for 28 years in the entity and in recent years he served as Head of the Internal Cargo Control Work Group at the Buenaventura Maritime Terminal. In attention to the pillars of the President of the Republic based on the "Public Policy of Transparency and Integrity", which analyzes data from different public entities to generate early warnings and prevent acts of corruption, and through international cooperation against organized crime transnational, Tax and Customs Police officials, attached to the Transnational Crimes Investigative Unit, deployed an operation in the south of the city of Cali, Pance neighborhood, achieving the capture for extradition purposes of Omar Ambuila. (DIAN, 2021)

In this regard, it is possible to glimpse that this same entity urgently needs a more efficient policy or a control system to prevent the corruption of officials, since it constitutes an administrative problem that the guidelines on sanctioning these same officials are increasingly stronger. but at the same time efficient, since its timely identification allows not only a timely intervention, but also a forceful message to the public regarding an agile and severe management.

Finally, it should be mentioned that through the Anti-Corruption and Citizen Service Plan -PAAC, the DIAN has identified the panorama of the main acts susceptible to corruption identified to date, namely:

(...), as the Anti-Corruption Agency of the Public Treasury of Colombia, whose mission is to protect public assets against actions of fraud and corruption in the DIAN and other entities, during 2020 it imposed 10 disciplinary sanctions against the crimes in the Table 3.

**Table No. 3 -. crimes**

<b>Crime</b>	<b>Quantity</b>
Bribery	4
Concussion	1
Prevaricate	2
Ideological falsehood	2
Does not apply for crime	1

Source: Own elaboration (2022)

In accordance with the competence attributed to the Internal Disciplinary Control Management Sub-directorate - DIAN, and for informational purposes, 12 duly executed judgments of a punitive nature have been issued, together with a resolution effective in 2020:

**Figure No. 4 -. Type of sanctions**

<b>Type of sanction</b>	<b>Quantity</b>
Fine	4
Cessation	7
Admonishment	1
Total	12

Source: Own elaboration (2022)



The most marked corruption according to the sanctions imposed in this term is raised in terms of bribery, that is, offers of money or remunerative promises to the servers, from which it follows that external agents permeate our officials. (DIAN, 2021). The foregoing allows us to infer that the DIAN has been exercising control over the issue of corruption, seeking in any case to sanction in a disciplinary manner and advancing the respective complaints before the Office of the Attorney General of the Nation by virtue of complying with its missionary condition as the entity in charge of guaranteeing the fiscal security of the Colombian State and the protection of the national economic public order.

### Financial

The application of principal component analysis yielded the following results:

**Table No.5** Pattern Matrix by Component  
pattern matrix

	Component				
	$Z_1$	$Z_2$	$Z_3$	$Z_4$	$Z_5$
VAT_EXTERNAL	1,049	0.063	0.081	-0.006	-0.232
STANDARDIZATION	0.895	0.131	0.114	0.005	0.162
TO CLASSIFY	0.870	-0.122	-0.033	-0.005	0.018
SIMPLE	0.829	0.138	0.104	0.002	0.059
HERITAGE	0.693	-0.023	-0.423	-0.054	-0.065
CONSUMPTION GOODS	0.674	0.057	0.077	0.032	0.053
RENT QUOTES	0.476	-0.415	-0.302	-0.018	0.313
CREATE STATEMENTS	-0.140	-1,003	0.090	0.004	-0.035
WEALTH	-0.129	-0.916	0.129	0,000	0.033
CREATE HOLDS	-0.133	-0.901	0.037	-0.002	-0.069
AMOUNT_CASES	0.100	-0.746	-0.325	-0.036	-0.099
TRANSFER PRICES	0.461	-0.614	-0.188	-0.034	0.040
VAT DECLARATIONS	0.459	-0.477	-0.162	0.006	0.386
YEAR	0.111	0.062	0.979	0.063	0.097
DEMOCRATIC SECURITY	-0.130	0.211	-0.943	-0.053	0.036
EXTERNAL	-0.017	0.030	0.156	-0.089	-0.040
GASOLINE AND ACPM	-0.012	0.008	0.015	0.998	-0.044
TO CARBON	-0.018	0.048	0.009	0.997	-0.036
Gmf	-0.158	0.204	0.033	-0.037	1,022
WITHHOLDINGS	0.383	-0.283	-0.226	-0.011	0.585
CONSUMPTION	0.303	-0.514	0.132	0.041	0.546
TOTAL	0.393	-0.411	-0.178	0.002	0.507

Extraction method: principal component analysis.

Rotation method: Oblimin with Kaiser normalization.a

a. The rotation has converged in 10 iterations.

Source: own elaboration

This is how, based on what is presented in Equation 1 of the methodological section, it is necessary to:

$$Total = 0,393Z_1 - 0,411Z_2 - 0,178Z_3 + 0,022Z_4 + 0,507Z_5$$

Paying special attention to the values in the components  $Z_2$  and  $Z_3$ , it is possible to identify that both generate a negative contribution to the total collection variable.

Of special interest then is the factor  $Z_2$  with a greater negative charge (-0.411) in the understanding of the Total result. If the obtained in Table No.5 is observed, it can be noticed that the component contributes mostly in the variables CREATE DECLARATIONS (-1.003), WEALTH (-0.916), CREATE WITHHOLDINGS (-0.901), QUANTITY\_CASES (-0.746), PRICES OF TRANSFER (-0.614), VAT DECLARATIONS (-0.477)

This is how it can be identified that the variable of number of corruption cases is inverse to the total collection, with which, an increase in corruption cases is related to a decrease in total collection. The same happens with the other variables that give a negative charge, this is how the CREE, the wealth tax,

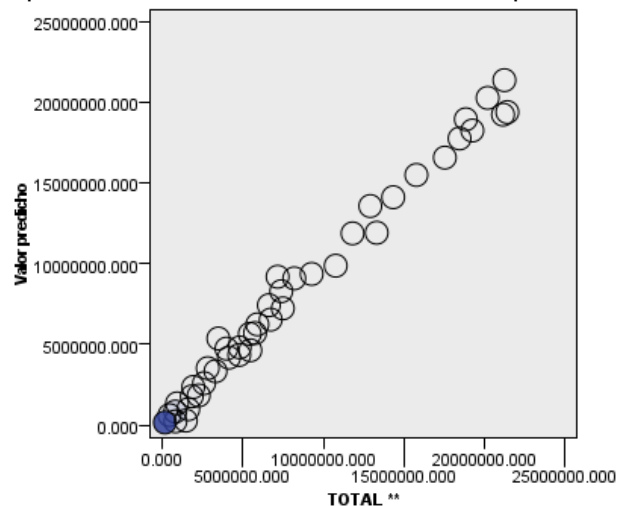
the transfer prices and the VAT declaration, are inverse to the growth of the collection, that is, when these increase, the total collection decreases.

Generating a model that explains how that total decreases leads to the following result:

$$\text{Decrease\_Total} = 0.007245 * \text{QUANTITY\_CASES} + 0.0000001753 * \text{VAT DECLARATIONS} + 0.000002703 * \text{WEALTH} - 0.0002466 * \text{TRANSFER PRICES} + 0.000003002 * \text{CREATE WITHHOLDINGS} + 0.000003587 * \text{CREATE DECLARATIONS} - 0.2351$$

With which, the contribution to the reduction of collection due to corruption cases is of a considerable order. The model, when comparing predicted and observed values, presents the results of Figure No.6.

**Figure No.6.** Relationship between Total value of collection and predicted value of the model



Source: own elaboration

### CONCLUSION AND DISCUSSION

Previous investigations have concluded that tax evasion, corruption and Tax Administrative Management put public administration at risk, Feinstein (1991), demonstrated with empirical studies that half of evasion is detected in the audit process, Sanyal, Gang2 & Goswami (2000), Lee (2001), in a corrupt regime, states can significantly lose income, therefore taxpayers insure themselves against possible sanctions, as a result of inadequate tax management and greater control, Goerke, (2008), Businesses can take away the benefits of evading taxes and can congruently avoid compliance with legal restrictions through bribery of public officials.

The results of the investigation determined that tax evasion originates first from the tax culture of taxpayers who do not present and pay the respective taxes based on the operations that the companies have since there is no management of public resources, in some areas of the country, caused that taxes are not settled correctly or business activities are not formalized, caused a deterioration in the country's economy due to informalism, likewise in the tax administration cases of corruption and internal fraud were analyzed as validation of favor balances without fulfilling the requirements, acceptance of internal bribes from control officials, situation that puts the entity at risk as taxpayer inspector starting from the operational and administrative levels of this institution, situations described under the confidence of citizens and businessmen in the organizations that manage public resources, the figures presented in the investigation are an Estimation of evasion and corruption caused by bad administrative practices, the data is approximate because the information is not available in detail by the Tax Department.


Internal regulations against tax abuse, practices not accepted towards taxpayers, must be tightened when determining monetary and criminal sanctions, according to the seriousness of the act, and not make it more flexible or impose tax benefits in reforms on tax normalization for taxpayers. taxpayers who are immersed in situations of evasion, however, for the tax administration, officials who are currently in an administrative career and contractors must be internally evaluated, how the personnel selection filter is being carried out, encourage training program plans, salary scale and the opportunity to move up the ranks according to the capacity of both experience and education of the officials.



Inspection techniques must advance even more in online computer systems, to detect tax evaders or those who commit tax abuse strategies, therefore it must be invested in the Information and Communication Technology platform, to be more efficient in the crossing of information from third parties, although the crossing of information or data analysis is being carried out, the latter presents errors in the examination process, the efforts of the tax administration to detect cases of internal corruption have led to the use of the Inter-institutional Network for Transparency and Anti-Corruption - RITA, in order to identify red flags of corruption, serving citizens so that they can report cases of corruption risks, Not being enough for the timely detection of cases, the results of the investigation will help future researchers to determine what the advances of the tax administration have been to mitigate tax evasion and tax bribery, with the sole purpose of contributing to the public administration. for a good management of the administration of the resources.

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