

CONTROVERSIES REGARDING THE COMPULSORINESS OF PRECAUTIONARY MEASURES IN CASES REGARDING TAX EVASION

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ABSTRACT:*The law to combat tax evasion provides a compulsoriness of establishing the precautionary measures. Therefore, Article 11 of Law no. 241/2005 for the prevention and combating of tax evasion, sets down that, in the event that a crime provided for by this law has been committed, taking precautionary measures is mandatory. As a principle, the provisions of a special law are supplemented by the provisions of the general law, tot the extent that they do not conflict. Therefore, it is obvious that in relation to the competence to dispose of them, the act by which it is disposed of, the remedy, the general provisions of the Code of Criminal Procedure are applicable.*

From the analysis of art. 11 of Law 241 of 2005, however, it would result that the precautionary measures are taken in all cases, without any exception, without the courts being able to make an evidence-based analysis of the necessity and proportionality of these measures. The article analyzes to what extent this interpretation does not contradict the constitutional requirements regarding free access to justice, the right to defense, the protection of private property equally.

KEYWORDS: *attachement order; tax evasion; unconstitutionality; the right to defence; free acces to justice.*

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