# Designated Zones and the Burden of Proof: An Analysis of Federal Supreme Court Case 1570/2024 on Excise Tax

September 26, 2025

---

In a definitive judgment that clarifies the boundaries of criminal liability for tax evasion, the **Federal Supreme Court**, in its session on 5 August 2025, has affirmed the acquittal of individuals accused of evading excise tax amounting to over fifteen million dirhams. The ruling, in Case No. 1570 of 2024, provides a robust analysis of the distinction between the mere possession of untaxed goods within a designated zone and the substantive offence of tax evasion. It reinforces the paramount importance of judicial conviction and the high threshold of proof required by the prosecution in criminal matters.

The case was brought by the Public Prosecution following the discovery on 9 February 2022 of a substantial quantity of **excise goods**—specifically 1,787,120 units of one product and 32,820 kilograms of another—which did not bear the requisite digital tax stamps. The goods were found in the warehouse of a shipping company. The Prosecution’s case was straightforward: the possession of such goods within the territory of the State, without the tax having been paid, constituted a deliberate evasion of a tax that was legally due. After the defendants were acquitted by the Court of First Instance, a decision upheld by the Court of Appeal, the Public Prosecution elevated the matter to the nation’s highest court, arguing that the lower courts had erred in law and fact.

At the heart of the final judgment lies a powerful restatement of a core tenet of criminal jurisprudence. The court began its reasoning by affirming the principle that, **“The essence of criminal trials lies in the conviction of the trial judge, based on the evidence presented, regarding the guilt or innocence of the accused.”** The judgment makes clear that a court cannot be compelled to adopt a particular piece of evidence. The law vests in the judge the full authority to weigh the probative value of the evidence and to found his judgment upon any proof or presumption with which he is satisfied. Most critically, the court reiterated that **“it is sufficient in criminal trials for the judge to harbour doubt as to the soundness of the accusation in order to acquit.”** This principle establishes not a mere technicality, but a formidable barrier that the prosecution’s evidence must overcome.

Applying this principle to the facts, the Federal Supreme Court found the prosecution’s case to be fundamentally deficient. The judgment adopted the reasoning of the lower court, which had concluded that the evidence **“was inadequate to reach the threshold of conviction, having been beset by frailty and weakness and enveloped in such doubt and suspicion that the court could not be satisfied by it.”** The prosecution’s case rested almost entirely on the findings of a tax enforcement officer. This, in the court’s view, was insufficient to establish guilt beyond a reasonable doubt.

The court’s decision turned on a crucial finding of fact regarding the location and purpose of the seized goods. It drew a sharp and legally significant distinction regarding the warehouse’s location in a **“designated zone,”** defined as a fenced area with security controls specifically intended to monitor the movement of excise goods.

The judgment determined that the goods had not been released for consumption into the local market. Instead, they were being stored **“for the purpose of transit, the clearance of**

**their transactions, and their subsequent export out of the country."** This was consistent with the defendant's unwavering denial and his explanation that his company was merely a shipping and logistics agent. The court noted that **"it is legally established that excise goods which are to be exported are exempt from tax, provided they are not released for consumption."** As the goods were seized within a designated zone and destined for an overseas market, they were not yet subject to the excise tax.

In dismissing the Public Prosecution's appeal, the Federal Supreme Court delivered a judgment of significant clarity for businesses engaged in logistics and trade. It confirms that the physical location of goods is paramount. The presence of untaxed excise goods within the secure confines of a designated zone for the purpose of re-export does not, in itself, constitute the crime of tax evasion. The ruling stands as an authoritative statement that the heavy burden of proof in a criminal case remains squarely on the prosecution, and that mere suspicion, however strong, cannot substitute for evidence that removes all reasonable doubt.

**Author:** Mahmoud Abuwasel
**Title:** Partner – Disputes
**Email:** mabuwasel@waselandwasel.com
**Profile:**
https://waselandwasel.com/about/mahmoud-abuwasel/

**Lawyers and consultants.**
Tier-1 services since 1799.
www.waselandwasel.com
business@waselandwasel.com