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Confiscation in Tax Crime Proceedings and Its Structural Tension with the Tax Assessment System

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TAX LAW

- Tax Assessment
- Tax Claim (§ 38 AO)
- Fiscal Enforcement

- Ability-to-Pay Principle
- Revenue Collection

CRIMINAL LAW

- Criminal Proceedings
- *Confiscation* (§§ 73 ff. StGB
- State Treasury

- Unjust Enrichment
- Gross Principle

SAME ASSET – TWO LEGAL LOGICS

Evaded Tax Amount

Tax Enforcement

Double Access

Criminal Confiscation

- No Priority Rule
- *Functional Double Burden*

STRUCTURAL TENSION

- State as Prosecutor
- State as Creditor
- No Priority Rule
- *Functional Double Burden*

BALANCE MODEL

NE BIS IN IDEM

- Ban on *Double Punishment*
- ECJ: Criminal Nature of Prosecution Crucial

Tax Claim Priority

Criminal Confiscation

- Double Track Proceedings
- Proportionality Principle

Confiscation must not operate as a parallel tax collection mechanism.