

SHORT INSIGHT INTO TAX EVASION IN ROMANIA**Lecturer PhD Lucia MOROȘAN-DANILĂ***Stefan cel Mare University of Suceava, 720229, Romania
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claudia.grigoras@usm.ro***Abstract**

The continuous increase of the cases of tax evasion, together with the number of taxpayers who try, in different ways, to evade from the payment of the tax obligations, which led to the decrease of the national economy and the appearance of the budget deficit, is the motivation of choosing the theme of the article. The purpose of the article is to know the current situation of the impact of tax evasion on the current society, the need to combat and prevent tax evasion and how to prevent the phenomenon that causes negative effects in all states of the world, including Romania. The authors consider that, on this basis, they can define methods that could combat or prevent this phenomenon, those mentioned are not a specific purpose, the in-depth knowledge allows to analyse the negative evolution in terms of tax evasion and fraud, so far, so that they let see what they could implement to eliminate this evolution, especially in Romania. In making this statement, the authors take into account the fact that, the measures to prevent and combat tax evasion, involve changing the legislation in force, motivating the taxpayers and educating them, but also other measures as important as those presented above.

Key words: *Tax evasion, tax obligations, prevention, fiscal control*

JEL Classification: *H21, H32*

I. INTRODUCTION

Particularly harmful phenomenon, particular and critical, the tax evasion has been and will always be classified as unwanted, with a negative evolution in each country, regardless of the political system addressed, size or level of development. Tax evasion can be classified as a threat to the process of forming state revenues.

In Romania, the phenomenon of tax evasion still requires thorough research and analysis to arrive at a correct and complete knowledge of its proportions. This is far from being used as an exhaustion object which should regulate the fight and prevention of tax evasion. In reality there are only tools to combat and less prevention (Gyuricza et al., 2017).

II. THE CONCEPT AND FORMS OF MANIFESTATION OF TAX EVASION

The tax evasion is presented as “theft by any means in whole or in part, from the payment of taxes, taxes, and other amounts due to the state budget, local budgets, the state social insurance budget and special extra-budgetary funds, by individuals natural and legal persons, Romanian or foreign” (Arjoca & Todorut, 2007).

The tax evasion reflects the way in which the people involved in economic activities respond to the fiscal tension, when it exceeds the limit necessary for setting up, developing and maintaining the business (Nastase & Morosan-Danila, 2016), but also when the current wealth or income of the taxpayers are affected.

Evasion behaviour is generally generated by two factors, the natural and the institutional. The main factor that can influence the tax behaviour of the taxpayers is represented by the multitude of tax deductions, namely, the fiscal pressure (Ciubotariu, Boghean, Morosan-Danila, & Boghean, 2012). The fiscal pressure directly affects the taxpayer, who in turn sees in taxes and taxes a "necessary evil" and accepts or not to pay them (Mihăilă, 2013).

The analysis of tax evasion is very important both from the point of view of the impact on the budget balance and from the point of view of the implications that it has on the economic behaviour.

As we have shown above, tax evasion is the deduction from the payment of the tax obligations owed to the state. Thus, tax evasion is an actual or possible behaviour of taxpayers, which may lead to the avoidance of payment of tax obligations. However, not all deductions from the payment of tax obligations represent tax evasion.

According to Law no. 87/1994, the tax evasion is defined as “the deduction, by any means, in whole or in part, from the payment of taxes and other amounts due to the state budget, local budgets, the state social insurance budget and the special extra-budgetary funds, by Romanian and foreign natural persons and legal entities, called

taxpayers”.

Theft from tax obligations can be done in numerous ways, however, the means can be divided into two categories: fraudulent tax evasion (illicit evasion) and legal tax evasion (legal evasion). As a result, tax fraud is an unlawful act, sometimes also of a criminal nature, and the tax evasion itself is not represented by facts that gather elements that constitute a crime (Trif, 2016).

The legal tax evasion is highlighted when the taxpayer bypasses the tax law due to a regulatory error or inconsistency. Here we can talk about using legal methods to evade tax obligations, but at the same time without breaking the law. As a result, tolerated tax evasion is at the limit of legality, using means to "easily pass over the law" (Scaileur, 1961).

”The dominant rule in the field of tax law is that the texts cannot be understood by their extension. So a tax cannot be applied by analogy to a certain unregulated situation, this gap being the object of speculation by the evasionsist” (Trif, 2016). As a result, the taxpayers are in some way respecting the legislation and the state has only to focus on deepening the legislation so that it is clearer and more precise. In the given situation the only culprit would be the legislator.

The legal tax evasion presents the legalization of the taxation mode, the objective being the reduction of the fiscal obligations by methods that are not provided for in the current legislation. Withdrawal from taxes and fees often involves artificial transactions that generate current or future tax advantages. Avoiding the payment of tax obligations by capitalizing on these "gates" leads to the reduction of payments to the state, but, at the same time, it is not a violation of the law but only the fact that we are dealing with a tax evasion that appeared through law enforcement and not through infringement it.

From the point of view of illegal tax evasion, things are very simple: any violation of the tax regulations that can lead to the damage of the state, as regards the financial interests, must be defined as illegal tax evasion. This is the only type of tax evasion itself, due to the fact that it occurs by breaking the tax law.

”For many analysts, tax evasion is one of the diseases of modern societies, along with the underground economy, corruption and others, and for others it is an attitude, a manifestation of democracy” (Popa & Manea, 2014).

An important aspect, in the study of taxation, is the taxpayer's tendency towards tax evasion. The greater this tendency, the more the state is harmed. Currently, tax evasion presents a rather complex phenomenon, with real and rather worrying implications in the economic-social life (Hoanță, 2010).

Fiscal pressure is a cause of tax evasion. Dobrota & Chirculescu (2010) in their paper show that the pressure "signifies how pressing the taxes are or, in other words, how great the tax burden is on the taxpayer's shoulders".

Hoanță, in his work "Fiscal evasion" states that: "Fiscal pressure is generally given by the rate of taxation, which is calculated as a ratio between the tax receipts (of central level and of local authorities) including the contribution to state social insurance in - a certain period, usually a year, and the value of the gross domestic product, realized during the same period, by a national economy”.

Another cause of tax evasion is the weakness of the tax administration. This has the effect of reducing the degree of collection of tax obligations. Given that we are talking about reducing the public revenues collected from the programmed ones, the damage of the state occurs, therefore, there is a tax evasion.

Fiscal facilities are also an important cause of tax evasion. As a result, they reduce the tax burden (exemption or cancellation of budgetary debts, granting any kind of fiscal support). When taxpayers receive such a tax facility, they want to continue receiving what leads to avoiding tax burdens. Granting tax facilities is harmful, both in the short and long term, as it creates an evasive culture.

Contagion is also a cause of tax evasion. From the simple fact that: a taxpayer observes that other taxpayers, evasionsist, did not have high costs through their evasionsist behaviour, can be influenced and, in turn, will take the example. The mechanism of contagion is a very present one on the Romanian market, and not only, due to the fact that the taxpayers observe the actions that others do and can be easily influenced.

The four causes are directly proportional to the extent of tax evasion, as they increase as the degree of evasion increases.

Tax fraud can be called illegal or illegal tax evasion. However, there are differences between tax evasion and tax fraud. More from the perspective of the internationality of the phenomenon. So, when internationalization cannot be proven we are talking about tax evasion, otherwise we can talk about tax fraud (Dinca, 2008). Tax fraud can be defined as a conscious action of the taxpayer who violates the law, the purpose being the deduction from the payment of the due tax obligations. For this purpose, we resort to various less legal ways such as: concealing the taxable object, undervaluing the income or using the various means of evading payment (Trif, 2016).

III. THE STRUCTURE OF THE TAX EVASION IDENTIFIED BY INCOME CATEGORIES

Romania is going through a transitional period, when more than ever it needs significant money to reach the waterline, restructuring and modernizing the economy are some of the main needs and new investments are needed in areas such as social protection, education, health as well as the culture and defence of the country.

A large part of the revenues obtained by the Romanian state are from the economic agents that have the obligation to pay the taxes and taxes due to the state budget, the local budgets, the state social insurance budgets and the special funds. According to the legislation in force, the payment of taxes and fees must be made by all taxpayers, but the control bodies sadly find that more and more taxpayers are hurting the state with millions of lei by evading tax payments.

The continuous increase of the cases of tax evasion by not complying with the legal norms, makes it necessary to take the decisions to prevent the tax evasion. These decisions must be in direct connection with the specific aspects of each category of fiscal obligations.

From the point of view of the tax on the profit, the control bodies find more and more deficiencies, such as: the recording in accounting of the oversized expenses; reducing the tax base by including costs without supporting documents; failure to record all incomes; non-recording in accounting of the differences established by the control documents; etc.

Regarding value added tax, the weaknesses found by the control bodies are: misapplication of deductions; eliminating the transactions that fall within the scope of VAT, omitting registration as a payer when exceeding the limits established by the accounting regulations; incorrectly applying the zero quota for export operations; issuing tax invoices or receipts containing VAT without the economic agent being paid; calculation errors; the theft from the VAT payment by declaring some imports as provisional; etc.

Regarding the tax on income from wages, the actions that lead to tax evasion refer to: non-taxation of the total amounts paid to the employees; incorrect application of the taxation of wage rights; failure to register the tax on wages; avoiding the registration and withholding of the wage tax; failure to comply with the legislation in force regarding taxation, cumulation of exemptions and reductions of income tax from wages; etc.

From the point of view of excise duties, the control bodies, following the fiscal control, find more and more facts of tax evasion, such as: not taxing in full the amounts due; the use of allowances lower than those provided in the legislation; reduction of alcohol from raw materials received for processing; excluding excise duties from the sale price of the products (Boghean, Hlaciuc, Boghean & Morosan-Daniilă, 2009); omission of the registration in the accounting of excise duties, etc.

Frequent deviations are also highlighted in the other taxes and fees due to the state budget and to the local budgets, such as: undervaluation of buildings in the accounting of economic units (Grigoras-Ichim & Morosan-Danila, 2016); omitting the registration in the accounting of the economic entities of the buildings, lands or means of transport under their administration, the erroneous calculation of the dividend tax; etc.

The Law 241 / 2005 regarding the prevention of tax evasion is a legal basis that includes all the modalities for committing tax evasion acts. The purpose of this law is to prevent and combat the facts of tax evasion by applying criminal sanctions and contraventions, while having an educational role for taxpayers in Romania.

IV. MEASURES AND METHODS TO COMBAT TAX EVASION

The phenomenon of tax evasion seriously affects the development of the country through its negative effects "focusing on diminishing the self-regulation capacity of the relationship between the need for financial resources and the degree of realization of public budget revenues, which leads to the increase of the budget deficit" (Gyuricza et al., 2017). The inflationary phenomenon is amplified by the basis of the decrease in the purchasing power of the Romanian national currency. This is due to the appearance on the Romanian market of the money funds arising from the non-payment of the fiscal obligations thus producing pressures on the national currency. Another negative effect is the degradation of the business environment which leads to the decrease of the attractiveness of the economy for foreign investors (Kyfiak et al., 2017).

Within the evasion phenomenon, the highest weight is held by the manifestation forms:

- Not to declare the income realized in view of the taxation by the natural and legal persons;
- Incorrect declaration of income and expenses recorded by natural and legal persons.

Combating the forms presented above should be based on the connection of the activity of the central and territorial bodies of the Ministry of Public Finance with the activity of the police and prosecutor's offices.

In the opinion of the specialists, regarding the modalities of combating the tax evasion, the setting up of a unique control unit at central and local level, which will have both procedural and practical attributions. The tasks of this control body must include the following tasks:

- The real finding of the obligations towards the central and local budget;
- The correct keeping, based on the documents, of the financial-accounting records;
- Guidance of taxpayers, natural and legal persons, in order to apply economic and fiscal legislation.

The efficiency of the fiscal control depends, to a large extent, on the creation of fiscal legislation adapted to the market economy, which will reduce the fiscal pressure.

The areas in which measures to combat tax evasion must take action are: legislative, administrative and educational.

The legislative field needs the drafting of clear, concise, concrete and sustainable tax legislation. At the same time it is necessary to exclude the reductions and deductions that lead to various interpretations.

From an administrative point of view, the aim is to create an information system as complex as it is operational (Morosan-Danila & Grigoras-Ichim, 2015), and to train specialists capable of preventing and combating tax evasion in Romania.

From the educational point of view, the measures involve motivating the taxpayers as well as training them in order to respect the tax legislation.

An important role in combating evasion is represented by the relationship between the taxpayer and the tax units, which must present the following obligatory steps:

- Finding and calculating taxes and fees according to the object of activity of the taxpayer;
- Establishing fiscal obligations by debiting taxes and debit charges or creating obligations for other taxes;
- Monitoring and collection of taxes and fees;
- The preparation of the fiscal records for each taxpayer and of the contralateral records.

Due to the complexity of the tax evasion phenomenon and the multitude of forms under which it occurs, tax evasion cannot be eradicated. However, combating tax evasion can hopefully be directed to more effective activities to prevent the phenomenon.

Strengthening the legal regime sanctioning is a necessary measure in combating tax evasion, the legislative framework is represented by Law no. 241/2005, which does not properly dress, in order to incriminate and sanction, the diversity and the large number of these facts. In view of the fight against the evasion phenomenon, two bodies within the National Agency for Fiscal Administration framework were established, namely: the National Anti-Corruption Directorate and the Fiscal Anti-Fraud Directorate.

In order to be combated, the evasion phenomenon must be constantly monitored. It needs special attention, and preventive measures must always be adapted at that time. In order to recognize and combat tax evasion, it must consider:

- Intensifying controls, but also motivating tax inspectors. From the authors' point of view, in this regard, the focus should be placed on the training and professional education of the fiscal control inspectors but not lastly and on the selection criteria of the taxpayers to be controlled;
- Allocation of resources, both financial and human, for the control, but also the orientation of the controls towards the areas with higher evasion risk. A premise of increasing the yield could be to ensure a proper budget for the tax administration.
- The existence of a computerized control system. The introduction of complete and permanently updated databases, which include data on all taxpayers and their tax obligations, would lead to easier selection for high risk taxpayers' on-the-spot checks (Amarita, 2017).

V.CONCLUSION

In Romania, the continuous and significant increase in tax evasion is becoming more and more dramatic. The spirit of tax evasion comes from a simple game of interest. Regardless of the tax rate levied, the man, by his nature, will always tend to put the general interest above the particular interest. The tax is considered more as an injury than a legitimate contribution to public spending.

In the matter of fiscal regulations, Romania faces a big problem, namely, the lack of correlation between the fiscal legislation. The laws, regarding the provisions, are not clear and there are no clear instructions for implementation. Therefore, the adaptation and application of a transparent and modern legislative framework, supported by the motivation of the personnel from the public institutions involved, could diminish the harmful effects of this economic phenomenon.

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