

TAX EVASION IN ROMANIA AND SOME METHODS TO PREVENT AND COMBAT IT

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Abstract:

Tax evasion is a threat to the process of state revenues. The extent of this phenomenon is taking a concern because, in the absence of measures to prevent and combat, it can have negative effects on economic stability.

Total eradication of tax evasion is impossible, however can be controlled and reduced by: educating taxpayers on the importance of paying taxes, development of systems and procedures to detect tax fraud.

Key words: *tax evasion, tax payers, fiscal policy*

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Romanian legal experts have been concerned from the very beginning of the century with the definition of tax evasion, different definitions being given for this purpose, such as for example: "all legal and illegal procedures by which those concerned shelter their possessions in whole or in part from the obligations established by the tax laws", or "avoiding the payment of tax obligations by submitting false data regarding sources and taxable income".

An important thing to note is that the lack of well-organized control which is equipped with skilled and correct personnel, always leads to the biggest forms of evasions. This lack can be doubled by the lack of a regulation to confine and prohibit it.

The phenomenon of tax evasion has a detrimental effect both on the state and the taxpayer. First on the state because it deprives it of the income necessary to fulfill its essential functions, and secondly on the taxpayer in that all taxes are distributed on a mass of low income.

According to how the work is done to avoid tax regulations one can differentiate between legal tax evasion and illegal tax evasion.

Legal tax evasion is the taxpayer's action to circumvent the law, recurring to an unforeseen combination of same. This form of evasion is not possible unless the law is incomplete or contains oversights. Legal tax evasion occurs when a certain part of the incomes or wealth of certain persons or social categories is sheltered from the taxation because of the way in which the tax legislation disposes the establishment of the taxable object.

Taxpayers find certain means and, taking advantage from the insufficiencies of the legislation, legally evade them, avoiding in full or in part the responsibility to pay the taxes, precisely because of an insufficiency in the legislation. In this way the taxpayers remain within the limits of their rights and cannot be charged with anything, and the state cannot defend itself unless it has a clear and precise legislation.

Acts of tax evasion based on favorable interpretation of the law most commonly used are:

- investing a portion of the profits made in the procurement of goods for which the state provides facilities, although their usefulness is not the same as designed by the legislature for the purpose of economic growth and equipping with modern technology).
- subtracting from the taxable income the entertaining, advertising and publicity expenses - much higher than those resulting from the application of legal quotas;
- some businesses establish depreciation or reserve funds far larger than one could justify economically, thus decreasing the amount of taxable income;
- preparation of documents for payment of money from incomes for the purchase of tools, machinery, raw materials or other goods that are not actually received, so that after the expiration of the taxation period the company can be given back the amounts fictitiously paid, with the consequent reduction of the tax.

Illegal tax evasion, unlike the legal one, is perpetrated by blatantly breaking the law, taking advantage of the specific way in which taxation is made. In this case the taxpayer violates the legal prescription in order to avoid the payment of taxes and contributions due to the state.

It is generally difficult to determine all forms of evasion of this kind, which are virtually unlimited. However, in the tax activity there are forms that are found more frequently:

- making false statements;
- bringing imported goods into the country without documents of origin in order to avoid the payment of the tax obligations;
- partial registration of the incomes made, either by not preparing the primary accounting documents, or by recording false data in these documents regarding the price, expenses or quantities;
- failure to declare the taxable matter;
- declaring taxable incomes lower than the real ones;
- preparing double registers, one real copy and a fictitious one;
- sales made without invoice and issuing invoices without an actual sale, which hide the real operations subject to taxation
- falsifying the balance sheet as a means to defraud the Tax Authority, which involves an agreement between the owner and the chief accountant, who are thus held jointly and severally liable for the deed.

The decrease in budget revenues from taxes, because of tax evasion, is an acute and frequent problem in several states, as their amount is not negligible.

Tax fraud is primarily a social phenomenon, as it reflects the structure of society through its procedures and technical level of its tax system. Regardless of the place occupied on the social ladder, the taxpayer uses various evasion techniques, from the elementary to the most sophisticated ones. The multitude of taxes and dues that the taxpayer - natural or legal person - must bear, but especially their exaggerated amount, has led over time to the identification of ways as ingenious and efficient for those who practice them, but as harmful for the collectors and ultimately for us all.

The methods most used for tax evasion per different types of taxes and dues are:

- a. In the case of *profit tax*:
 - reduction of the taxation basis;
 - incomplete registration of the incomes made;
 - transferring the taxable incomes to the newly created companies within the same group;
 - erroneous classification in the exemption period;
- b. Tax evasion for the *value-added tax*:
 - erroneous application of the deduction conditions;
 - not including operations which fall within the VAT scope in the calculation basis;

- not recording and not transferring the VAT related to the advance payments cashed from the clients;
- erroneous application of the zero quota;
- Avoiding payment of VAT by declaring certain imports as being temporary.

c. In the case of *excises*:

- decreasing the taxation basis;
- using lower quotas than the real ones;
- not declaring correctly the real operations in case of products whose prices bore excises.

Tax fines will not determine the taxpayers to declare exactly the incomes they have, but will determine them to take a series of minute precautions, in order to avoid their obligations towards the state.

Some of the measures which can be taken in order to prevent this phenomenon can be:

- correlating the tax system with the socio-economic realities and possibly developing tax strategies for at least 4 years, periods for which stability is the rule;
- enforcing a differentiated taxation, adapted to each economic activity sector, also in accordance with the respective strategy, this measure being extremely useful in the conditions of initial lack of capital;
- redimensioning the taxation basis regarding the contributions to the special funds which at present create difficulties in directing the reform of the profit tax, because they are numerous and do not take into account the taxpayers' economic situation.
- using more efficient methods for VAT reimbursement for the sales of goods and provision of services in favour of the non resident natural persons;
- eliminating the preferential treatments concerning the payment obligations towards the state budget and any other tax obligations;
- distributing the payment of taxes and excises among the manufacturers and traders of alcoholic beverages and cigarettes, in order to raise awareness among the final traders both regarding the origin of the sold products, and the payment of the contributions to the state;
- organizing an integrated computer system regarding the taxpayers of any kind and their tax history (including the previous work places, the wages they obtained, the paid taxes, the personal tax code)
- setting up the same computer system which can correlate the activities of collecting funds with the activities of the treasuries; elaborating the necessary provisions for the implementation of the tax file for natural persons; all these measures will lead to the discouragement of work under the table;
- providing a punishment/ reward system for all those who work in the state tax system, as well as developing a satisfactory and sufficient wage system in order to eliminate temptations;

In the conditions of the market economy, the tax authorities face a tax dodging phenomenon on a mass scale because of the tendency to shelter as much income as possible from obeying the law.

The lack of legal regulations, while the state capital has undergone significant changes in favor of private capital, the increase and diversification of the number of businesses, which have tax duties, created the possibility of avoiding the payment of taxes, fees and other amounts due to the state for most of the newly established businesses.

The alarming increase in cases of improper disclosure of the business operations, fictitious accounting records, establishment of companies aiming to make a single large commercial operation not registered in the records, and then abandoned entirely, the

intentional destruction of documents, reducing the profit margin percentage practiced, the use of double records, preparing and presenting false data in balance sheets and monthly trial balances, hiding some trade activities, not declaring the subsidiaries, affiliates, work points, warehouses and depots, presenting false documents for the import-export operations, have made it necessary to take firm action to stop the phenomenon of tax evasion.

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