

TAX EVASION AND FRAUD MECHANISMS

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Abstract:

Tax evasion is the most used economic and social phenomenon in the present period, which prevails in all the social life levels, starting with the tax payer, ordinary citizen and all the way into the political sphere.

This article aims to show the characteristics of some negative phenomena, as corruption, tax evasion, fraud and underground economy. In order to show the tax evasion mechanisms and to promote an improvement of the system that tries to fight them we bring into the discussion the main types of tax evasion known in the specialized literature. Identifying these mechanisms of tax evasion, may be and should be one of the solutions used to recover the financial and public balance for Romania nowadays.

Key words: Tax evasion, underground economy, tax fraud, corruption

JELclassification: H26

Fraud and tax evasion in Romania, as an EU member state, represents a scourge that goes hand in hand with corruption. The manifestation field of tax evasion is so stretched, and just as broad and varied as the field of tax application.

Given the diversity of opinions found in the specialized literature on the concept of tax evasion, we will limit ourselves to a few interpretations of the concept of tax evasion. According to the explanation given by the Encyclopedic Dictionary of the Romanian language, tax evasion represents evading tax obligations" and "the person who evades tax obligations" is called escapist. The most common sense given to tax evasion is "the art of avoiding falling into the gravity field of fiscal law" concept which belongs to MC Brie and P. Charpentier¹.

Iulian Văcarel defines tax evasion as "all legal and illegal methods by which those interested escape in whole or in part, their taxable material obligations under the fiscal laws."²

Maurice Duverger believes that tax evasion is a generic term, and designates "the manifestation of fleeing from taxes." This is a broad definition of tax evasion which also comes to include fraud.

Tax evasion is, in terms of semantics, evading legal obligations owed to the state, an effective or potential behavior of the economic subject likely to lead to avoidance of legal obligations owed to the state. In fact, not every avoidance of paying the legal obligations is tax evasion but only the avoidance of paying the legal obligations owed to the state as tax obligations, because the fiscal obligations are set by the state and for the state. We conclude that the avoidance of payment of contractual or circumvention of the legal obligations owed to the private sector does not constitute tax evasion, falling in other categories of law braking or contract breaching.

"The need to raise amounts to "the consolidated state budget", under the law 241/2005 on preventing and combating tax evasion is "the set of all public budgets, budgetary system components, aggregated and consolidated, in order to form a whole"; this has led to the strengthening of the fight to combat tax evasion in the Romanian

¹ "Dictionary of international economic relations" Encyclopedic Publishing, Bucharest, 1993, p. 227.

² Iulian Vacarel, "Public Finance" Didactic and Pedagogical Publishing, 1999, p. 157.

society in 2015, battle fueled by the NAFA control bodies and by its criminal investigation authorities and the courts"³.

According to specialized opinions in tax evasion there are two manifestations⁴:

Legal tax evasion, allows a portion of the taxable matter to be taken without this being considered a contravention or felony. It is possible because the legislation in various states permits the removal from the incidents of the income tax of some incomes, parts of the income, components of wealth or of certain acts and facts in which terms of strict implementation of the law and principles of taxation, should not escape taxation.

Fraudulent tax evasion is met on a much larger scale than the lawful evasion and it is done in violation of the law, relying on fraud and ill faith. It has forms, such as: keeping fake accounting records; willful destruction of documents that can prevent the truth regarding deliveries of goods, prices, collected or paid fees; preparation of documents for fictitious payments; unjustified modification of purchasing prices and transport costs, handling and storage; preparation of false customs declarations to the importation or exportation of goods; preparation of false tax declarations when deliberately not mentioning only part of the income.

In order to show the mechanisms of tax evasion and to promote an improvement of the system of countermeasures, the well-known main types of tax evasion (Public Finances and Accountability) were established:

- a. **In the import, production and sale of oil and oil products we identify the following methods of tax evasion** - creation of companies on behalf of foreign nationals leaving the country and serve as a "liaison" with the aim of losing the final destination of the product.

Using these techniques, a large part of the Romanian refineries of petroleum products were delivered without excise by interposing a "bubble company" in the chain of delivery - as Premium gasoline and diesel. This creates a fictional commercial circuit, from the refinery to the gas stations, and the product sold actually holds other quality parameters of the product than those required at the destination. Delivery excises are avoided and high prices are charged for the refined products, and thus the buyer receives lower quality products⁵.

- b. **In the import, production and marketing of alcohol beverages**. The main method used by the economical agents to avoid paying taxes on this market is assigning commercial trading companies to foreign citizens, using legislative loopholes. The stake holders, Romanian citizens, of some legally registered companies have obtained a license to produce alcohol and alcoholic beverages. On this basis they apparently performed legal activities for a while, in the meantime accumulating fiscal debts of billions of RON. In that moment the company was sold to foreign nationals who could not be identified⁶.

- c. **In the service industry and construction**

The classic method of tax evasion in these industries is that Romanian companies register services rendered across the border or inside the country which subsequently cannot be quantified or identified. The majority of service providing companies are both bubbles and cessions or are registered in countries considered tax Heavens (Liechtenstein, Virgin Islands, Vaduz and Cyprus).

³ Uher, Marina. Nagy, Cristina Mihaela. (2015). Accounting and legislative interpretations of tax evasion facts - between reality and legality. ANALE. Seria Științe Economice Timișoara, Vol. XXI. Editura Eurostampa, Timișoara. e-ISSN: 1582-6333, p. 423.

⁴ Leontin Stanciu, "Tax evasion and tax repercussion," Publishing House, Bucharest, 2007, p. 137.

⁵ Nicolae Craiu, "Underground economy and disruptions arising from the establishment and consumption of the public factor income", Lucian Blaga University of Sibiu, 2003, p. 200.

⁶ Nicholas Craiu, "Underground economy between YES and no", Economic Publishing House, Bucharest, 2004, p. 201.

- d. **In import and export operations.** In case of import of raw materials, unfinished goods for which the customs have been paid, tax evasion method consists in interposing a bubble company or a real one. The imported or sold goods on paper to the fictive company at agreed prices are then resold to a well-intentioned buyer. The taxes for undervalued products are paid, the ones avoided through price differences are assigned to the merchant companies. In fact, a fictional circuit of documents takes place, without actually moving the goods from customs to a beneficiary.
- e. **In less favored areas.** Although the aim taken in consideration by providing facilities to the agents operating in deprived areas was to create a regional economic balance - employment and stimulating productive activities – actually, methods that depreciate the budget of the state through tax evasion were created. From the discoveries of the financial and tax control institutions, results that companies and branches were created in these areas in order to provide tax benefits (exemptions from customs duties, VAT, excise, taxes on profit).

Conclusions. The causes of tax evasion are given primarily by excessive taxation and the level of corruption. In order to limit the cases of tax evasion complex measures are necessary concerning the organization and management of the company. Tax evasion as a phenomenon cannot be fully contained, but its effects may be limited by the permanent involvement of the Government and of the taxpayers.

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