

FISCAL PARADISES

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Abstract:

Fiscal paradises at the moment represent a known and used process of fraud and tax evasion. The concept of „Fiscal Paradise” is vaguely defined and includes any country that perceives zero taxes or reduced taxes on all or just some categories of income, some sort of commercial or banking secret, minimum requirements from the central bank and no kind of restrictions over the foreign currency exchange.

Starting from the diversity of opinions expressed in the specialized literature we will present some general considerations regarding the phenomenon „Fiscal Paradise”, and a detailed analysis of the consequences that at has in this moment on the level of the European states.

Key words: tax evasion, fiscal policy, fiscality, fraud.

JEL classification: H26

The fiscal paradisi corresponds to a state or a geographic area which has an almost inexistent tax system, and a high degree of fiscal discretion. In C. Corduneanu's opinion, the fiscal paradise is „an instrument through which is realised the international tax evasion by the taxpayers who are looking for more convenient fiscal treatment.”¹

Tax haven has its origins from English, but it is also meet in the form of the expression "tax haven's countries", this definition is usually attributed to those states or territories constitutionally independent of a country that grant exemptions or reduction of taxes².

According to some estimations, it would exist about 60 states and/or territories which – by practicing a reduced fiscality or a preferential one –could be considered fiscal paradises. In the vast majority of situations, it's about small states or territories (as area, as number of inhabitants, and as economic power).

The purpose of fiscal paradise users is very simple: pay less taxes, and increase the income. The complexity of fiscal paradises phenomenon, in the actual economy, requires its research on different levels: worldwide, national (macro and micro economic scale). Each fiscal paradise offers to the investors, together with standard facilities in fiscal matters, other opportunities, some of them more viable, and some on financial and fiscal alignment. The fiscal paradises, also named offshore financial centers, provide a support for funds like offshore placements, or other form of portfolios of administered investments.

By an offshore company it is understood an entity established in a tax haven, and according to the laws in force, in the countries in which they are registered they benefit from tax exemptions or substantial reductions.³

Some offshore territories can attract investments because of their geographic

¹ Corduneanu C. – Sistemul fiscal in stiinta finantelor (Fiscal System in the Science of Finance), Ed. Codecs, Bucuresti, 1998, pg. 58

² Sabău Crăciun, Uher Marina, Nagy Cristina Mihaela. Contabilitatea reorganizării și lichidării întreprinderii, (Reorganization and liquidation accounting firm) Editura Eurostampa, Timișoara, 2014, Pg 26

³ Sabău Crăciun, Uher Marina, Nagy Cristina Mihaela. Contabilitatea reorganizării și lichidării întreprinderii, (Reorganization and liquidation accounting firm) Editura Eurostampa, Timișoara, 2014, Pg 26

settlement, and having developed communications and transport networks, which allow capital infusion, or generate capital anywhere in the world. As a form, the notion of fiscal paradise, has appeared in the ancient world.

In ancient Greece, the philosophers of antiquity, used non-profit companies from that period of time, to finance their universities, and to avoid the imposed taxes for the development of these activities.

In the sale of goods, the merchants from the islands near Athens, avoided an 2% tax, charged for the Greece capital city, for imports and exports. Similarly, the first fiscal paradise was Flandres, which at the beginning of the XVI-XVII-th century, charged a very low tax for the trade made through its ports.

Through these periods, the fiscal paradise term was used to define a place destined for ships withdrawal in case of storm or mighty winds⁴.

In the development of fiscal paradises, the XVII-th century left its imprint economically, because in this period of time, the maritime infrastructure was the main and most used shipping way for the merchants.

Among the persons who currently used in ancient times such fiscal oases, there were also the pirates of those times, who were in action on the oceans, identifying islands and towns where to hide or deposit the treasures from the looting of merchant ships⁵. In the 70's the development of fiscal paradises was due, in great part, to the protective regulations and high taxes on the main markets⁶.

Within of an international trade, which is not uniform, the fiscal paradises were a compensation for the lacks caused by some nationalist and perfectionist issues.

The fiscal policy of a state generates, in an economical and financial context, more or less advantaging the citizens, a group of answers of these citizens to the fiscal pressure and also to the taxing of the incomes from diverse activities. Also this fact leads to the attraction of fiscal paradises for much more natural and legal persons, with the purpose of investments and profits placement, which are gained by avoiding fiscal liability in the residential state, and by applying a much more convenient⁷ fiscal regime, and in the meantime observing that fiscal paradises are similar to fiscal fraud⁸.

After the Second World War, the fiscal paradise phenomenon gain huge proportions, and it spreads in every corner of the world: the Pacific, the Caribbean area and in the islands from the Atlantic Ocean, but also in European small and very small countries.

The essential characteristic of the offshore banking system resides in the fact that transactions are made in foreign currencies and in the advantage of non residential ones. The existence of fiscal and financial paradises is strongly bonded with the capitalism history, the French Revolution and the industrial one being a marking moment for speeding the apparition and development of those paradises.

The advantages offered by fiscal paradises are not only for possession protection; realizing big profits; washing the money obtained from illegal operations; running away from excessive fiscal pressure from own state, but also non fiscal advantages that these paradises offer: promotional advertising, modern and effective

⁴ Nandra Eugenia Ramona – Competitia fiscală. Infernul și paradisul fiscal (Fiscal Competition. Fiscal Hell and Paradise), Ed. Sfera Juridică, Cluj, 2008, pg. 112

⁵ Corduneanu C. – Sistemul fiscal în știința finanțelor (Fiscal System in the Science of Finance), Ed. Codecs, București, 1998, pg. 355

⁶ Gaftoniuc Simona – Finanțe internaționale (International Finance), Ed. Economica, ed. a - III – a, București, 2000, pag.387

⁷ Bișa Cristian,- Utilizarea paradisurilor fiscale între evaziune fiscală legală și fraudă fiscală (The use of fiscal paradises between legal tax evasion and fiscal frauds), Editura BMT Publishing House, București, 2005, pag. 26

⁸ Șaguna Dan Drosu - Tratat de drept financiar și fiscal (Financial and Fiscal law treatise), Editura All Beck, București, 2001, pag. 653

communications network; political and economical stability, protection, precision and order etc. All these are permitting to build a complex network, through moving capital, dirty money, fraudulent financial resources, criminal profits, but also legal capitals of great corporations, which are looking for less expensive financial and fiscal treatments.

The fiscal paradises are actually the “umbrella”, and beneath it, the money the money washing from illegal activities like drugs and weapons traffic, goods traffic take place. The main purpose of tax payers which are willing to enter the fiscal paradises would be: the minimizing of taxing material from the upper fiscal states, and transferring it in the areas that have lower level of taxes than the origin country, or even no taxes

At this moment, among the facilities that these states named fiscal paradises are granting we mention:

- profit taxes exoneration, and also capital increasing and possession taxes;
- very low tax levels;
- advantages for specific type of societies: eg. holdings;
- asking profit taxes which are connected to a territorial base: if profits aren't from that base, there is no tax;
- releasing the investments realised in a fiscal paradise is exonerated of increasing value tax;
- there are very effective banking, law, accounting specialists.

André Beauchamp, in his book „*Guide mondial des paradis fiscaux*”⁹, is grouping the main fiscal paradises, based on the actual fiscal regime, in six groups:

a) countries in which there is no tax for the income and capital increasing of persons: Bahamas, Bahrain, Bermuda, Monaco, Cayman Islands;

b) countries where profit tax is fixed on a territorial base, the tax payers being exonerated of profit tax, if they realised the profit outside the territory: Costa Rica, Hong Kong, Malaysia, Panama, Philippines, Venezuela;

c) countries with low tax level: Liechtenstein, Switzerland, Virgin Islands, Dutch Antilles;

d) countries that offer specific advantages for holdings: Luxemburg, Singapore, Netherlands;

e) countries that offer fiscal exonerations for investments, created to increase exports: Ireland – for the companies created before 1981;

f) countries which offer other advantages specifically for some companies: Antigua, Anguilla, Grenada, Jamaica, Barbados.

Conclusions

At the same time with the special development of global economic activities, and also with the increasing of foreign direct investments on a world scale, there is also clearly increasing the request for operations made through offshore companies, which means they are made in fiscal paradises countries, to avoid or to minimize the taxes. This phenomenon attracted a growing number of foreign investors, especially in the last decades. Usually, they are people and companies that more advantageously leave the tax collection system from their own land, looking for a business environment, because in some countries with high taxes, especially in Europe, the taxes paid by a person or a company, could be up to 50% from their profit. These leak of capital, is not well looked upon by those who are working in the fiscal administration of those countries, and they are reacting by taking different measures to block the capital transfer in fiscal paradises

⁹ Beauchamp, Dan Andre - Le guide mondial des paradis fiscaux, Bernard Grasset, Ed. Grasset&Fascquelle, Paris, 1989

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