



EUROPEAN EXPERIENCE IN TACKLING TAX EVASION SCHEMES

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Abstract *Tax evasion is a serious problem for any state, the consequences of which are reflected in the social and economic situation of the country. Tax evasion is not a feature of one economy, this practice is common in many countries of the world. The countries of the European Union are losing billions due to tax evasion. Tax evasion occurs both at national and international level and is one of the most widespread economic crimes.*

To prevent the tax evasion, the state needs to take measures primarily to stabilize the economic situation, this measure is one of the most important factors for both: the development of small business and the exit of small enterprises from the shadow sector.

Key words:

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Fiscal system,
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1. INTRODUCTION

The level of influence of the tax system on solving social and economic problems while taking into account the system of interests of all economic entities characterizes the efficiency of the tax system. One of the most important directions of improvement of any system of taxation is its informative analysis aimed at revealing both strong and weak sides of the tax system in all aspects of its study: functional, elemental and organizational. In carrying out such analysis, it is necessary to make a comparative analysis of this tax system with others, to identify the strengths that can be applied to the Romanian system of taxation.

2. INTERPRETING TAX EVASION AND COMBATING IT IN THE EUROPEAN UNION

The tax system of any country is a complex and multifunctional element, which consists of a large number of taxes and fees. All taxes imposed by the state have the purpose of replenishment of the State budget, which in turn gives the state an opportunity to influence the behaviour of economic agents and to promote their development. However, there may be a situation in which the state needs to increase tax rates in order to help the business development, but in this case, the tax burden will fall on those enterprises that need this support.

Because of the desire to distribute the tax burden between different groups of taxpayers based on the principles of fairness and efficiency

lead to the complexity of the tax system. It is impossible to fully reconcile these principles, as we always have to partially sacrifice efficiency in favour of justice or vice versa. For this reason, the imperfection of the tax system will be inevitable, but in order to minimize the negative effect of these imperfections, it is necessary to first define the criteria on the basis of which the tax system will be assessed.

Economic efficiency implies that the tax system should not contradict the efficient allocation of resources since, at the present level of tax rates, tax considerations are most often the main ones when choosing ways of managing, saving, consuming, and investing.

The impossibility of creating an ideal tax system leads to the fact that each tax system is imperfect, which in turn leads to such actions of taxpayers that are undesirable or illegal for the state. Imperfections in the tax system can largely be explained by the level of the tax burden in the country, as it has a significant impact on enterprises at all levels, excessively high tax burden contributes to the development of the shadow economy.

The severity of the tax burden is a natural result of the state activity, unable to provide real tax collection and seeks to compensate for the reduction of the tax base by increasing the tax rates. The reduction of tax payments causes the tax burden to increase, which in turn causes a rise of tax violations. This again reduces tax payments and increases the tax burden on the entire shrinking number of law-abiding taxpayers.

The process resumes at a new level and as a result, the reduction of tax revenues is combined with the increase in tax burden, the severity of which deprives the entrepreneur of incentives for effective activity, and as a result, today, the states are increasingly becoming parties to legal relations related to international taxation. This term was first used by E. Seligman in 1927, noting that international taxation has gained significance since the conclusion of Belgium's first tax treaties with France in 1843, with the Netherlands, with Luxembourg in 1845, when States realized the importance of jointly addressing the issue of taxation of objects falling under the tax jurisdiction of several states [3].

Since the tax sovereignty by which states justify their right to carry out taxation on various criteria, in particular, the implementation of activities through a permanent establishment, continues to play a crucial role, problems of international double taxation and international tax evasion remain relevant and affect the interests of almost all countries of the world.

Tax evasion is a serious problem for any state, the consequences of which are reflected in the social and economic situation of the country. At the macro level, this phenomenon leads to the insufficient cash flows to the budgets of different levels and, as a result, insufficient financing of expenditures aimed at the development of the social sphere. In other words, the vital components of public life, such as education, medicine, protection of rights, freedom, legal interests of the individual, culture, environmental protection, support for the

low-income segment of the population and the people with disabilities, and many others. The existence of tax evasion and the shadow economy is fraught with potential threats to national security and has a negative impact on the system of resource allocation. The non-payment of taxes leads also to economic problems: the growth of corruption, capital flow abroad, unfair competition.

On the basis of the above-stated "tax evasion" can be understood the intentional actions of the taxpayer aimed at reducing the amounts of tax liabilities to the budgets and state trust funds using illegal receptions and methods of tax minimization, the purpose of which is to obtain unrecorded additional funds to satisfy their own needs, which harms the society.

Entrepreneurs are guided not by abstract comparisons of the state's benefit and tax losses, but rather by specific considerations about the magnitude of the risk: by how much the tax amount is higher than the penalties for evading it. If the consequences of evasion are not too heavy and the likelihood of detection is low, most entrepreneurs will prefer to evade or minimize taxes by taking advantage of weaknesses and contradictions in tax legislation or tax collection techniques. Tax evasion is facilitated by deficiencies in legislation, impunity for violations and weak control. And the common allegations, as if the main reason is too high taxes, are not fully justified.

So, in terms of specialty, if we refer to the "loss" of financial resources from the contributors, as specified by Romanian economists, tax evasion is the way in which economic subjects respond to

the tax pressure, where it exceeds a certain threshold deemed necessary for the initiation, maintenance, and development of the business or of any gainful activity, as well as in relation to their current wealth or income. Although tax evasion has connotations entering the semantic sphere of the underground economy, it is not a component of the underground economy but rather is the inherent interference of the underground economy with the official one. In this context, we emphasise that the tax pressures are the share of tax revenues necessarily taken by the government from legal taxpayers in the related tax base, either income, wealth, or sales, etc. [1].

So according to the quoted author, tax evasion represents, from a semantic point of view, a removal from the payment of legal obligations due to the state. The tax evasion is, therefore, an actual or potential behaviour of the economic subject that lead to the avoidance of payment of legal obligations due to the state. Therefore, not every evades of legal obligations is a tax evasion, but only the payment removal from legal obligations due to the state. This is logical, given that the tax obligations are determined by the state, for the benefit of the social community.

For an entrepreneur, tax evasion is a way to save on production costs, comparable to savings on such production costs as labour or material costs. Reducing production costs, including savings in tax payments, is a critical factor in competition, allowing to sell their goods, services and work for lower prices. Therefore, illegal actions of the taxpayer associated with tax evasion should be

recognized as unfair competition, which puts such an entrepreneur in more advantageous conditions than his bona fide competitors.

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The Organisation for Economic Cooperation and Development on February 12, 2013, published a report on the erosion of the tax base and the withdrawal/ shifting of profits from taxation (Base Erosion and Profits Shifting). The document is devoted to the regulation of the global tax system and the issues of combating the tax evasion. The main idea is that the adoption of modern international tax standards remains behind the changes in the practice of transnational business and the development of e-commerce.

The Global Forum, comprising 121 countries, including many offshore, is the leading international body for the implementation of internationally agreed standards of transparency and information exchange in the tax field. This is a continuation of the work begun in the 2000s. within the OECD. The organization was reorganized in September 2009 in response to a call of G20 to strengthen international standards. In February 2014, within the framework of the Global Forum, the Organisation for Economic Co-operation and Development introduced a new unified standard for automatic exchange of information between tax

authorities around the world. At the EU level, the European Commission is also seeking to establish a pan-European automated Tax data exchange system. Initiators, in this case, are the United Kingdom, Germany, France and Spain. Pilot tests have already been carried out in the last two countries.

One of the objectives of the international exchange of tax information is to counteract tax evasion in international economic activity. Consider the experience of foreign countries in the fight against violations of tax legislation in the field of VAT. The world economic crisis prompted the EU countries to accelerate the creation of a single fiscal body and yo open their tax databases to neighbouring states. In October 2010, the European Union established a pan-European system to combat tax evasion Eurofisk. This decision was approved by the Ministers of Internal Affairs and Justice of the community. The main task of the new structure is to monitor fraud related to VAT evasion.

Tax evasion is becoming a very serious problem on a global scale. Thus, in the Czech Republic in 2013, the state treasury was not accounted for 5.5 billion euros from taxpayers. But the Cabinet of Ministers of Robert Fico decided to fight the debtors. Experience in the fight against the non-payers has brought this country in recent years to the forefront of the world. Slovak cheque experiment led to the fact that for three months in the state treasury was paid 200 million euros of taxes more than for the similar period earlier.

In many European countries, in order to combat tax evasion more effectively and to secure

large sums of its revenues to the budget, there is a joint responsibility to persons directly connected with the unfair payer, if fraud is perceived in their conduct due to improper fulfilment of tax obligations. It should be noted that this procedure is widely applied in the states of Poland, Denmark, the United Kingdom, Germany, Belgium, Italy, the Netherlands, Slovenia, and other EU countries. Also, the introduction of automatic information exchange at all levels will help to eliminate the institution of offshore jurisdictions in Europe in terms of avoidance schemes, but not minimizing the taxation. As a result, the number of most common non-tax withdrawal schemes in Europe would decrease.

With reference to Romania, in the context of our research, we will return to the reflections of the great contemporary Romanian economist, Emil Dinga, who argued, that although in literature, are often meet two terms defining tax evasion: a) legal tax evasion and b) illegal tax evasion, however illegal tax evasion is the only species of tax evasion itself, because it is done with the defeat of the tax law [1; p. 25].

Tax evasion is massive in economies with weak institutions, in which respect for the law is distorted and by a flawed relationship between the state and the citizen. Thus, the tax revenues in Romania are for years at about 28% of GDP, one of the lowest levels in the European Union. The shadow economy has one of the largest dimension (reported to GDP) in the EU accounting between 25% and 30%. Tax evasion is complemented by another bad practice of economic organizations

such as "Fiscal optimization ", attempting to avoid paying taxes (tax avoidance) by capitalization of portals in the legislature, to make arbitration according to the advantages offered by various tax jurisdictions (tax havens).

In this context, we would point out that tax evasion concerns not the effectiveness of the damage to the financial interests of the State but rather the potentiality of such a loss. Indeed, if tax evasion occurs without violating the law, it is logically apparent that the programming of budgetary revenues did not take into account the budgetary revenues that might not be collected due to the provisions of the tax law. So, in this case, we can refer to:

a) The underestimation of budgetary revenues by the legislator, by leaving "Loop doors" for wrinkling possible public revenues, i.e. by incompetence or negligence in service;

b) The sub collection of budgetary revenues by the tax manager, by incompetence or negligence in the service.

Regardless of how these actions are dealt with, it is certain that the steals of public income to the detriment of the state's financial interests imply tax evasion as defined by Law no. 87/1994 on combating tax evasion [2].

In the European Union, increased attention is paid to tax evasion and combating it. Thus in 2014, in Berlin, 80 countries have pledged to establish in four years a system of automatic exchange of financial information, a notable breakthrough in the fight against tax fraud. Of the signatory States, 51 pledged to start the exchange

of information from September 2017, following each of them to establish for this purpose a national authority charged with the collection and transmission to other states of the banking information on foreigners with the right of residence on its territory. The objective pursued thus is that each tax administration knows what financial assets their taxpayers have placed abroad.

Among the signatories are the Member States of the European Union, but also the principals attached to the banking secrecy as Liechtenstein or tax havens such as the Cayman Islands or the British Virgin Islands. Another 30 states have committed themselves, in a separate agreement, to join these exchanges from 2018, among them are countries such as Austria, and also Switzerland, the standard of banking secrecy, and important financial markets such as the Bahamas or the United Arab Emirates.

In order to combat the tax evasion, the European Union's finance ministers concluded in 2017 an agreement on combating the tax evasion that would bring the Community block's standards to the level of global regulations, and Austria achieved one-year in addition for creating a data exchange system with banks. The agreement extends a current law, known as the Administrative Cooperation Directive, according to which the Member States exchange information on income obtained at work, directors' allowances, life insurance, pensions, and properties, which cover all forms of financial revenue, including dividends and interest, relate MarketWatch.

Once entered into force, the law will bring the European Union to the level of a standard agreed by the Organisation for Economic Co-operation and Development (OECD), which provides the automatic exchange of information between countries and jurisdictions so that the identification of those who neglect the fiscal system by moving money abroad to be easier.

Given that one of the main objectives of the Council Directive (EU) 2016/1164 is to improve the resilience of the internal market as a whole to cross-border tax avoidance practices, this cannot be satisfactorily achieved by the Member States through individual actions. So it was essential to adopt solutions that work for the internal market as a whole.

3. CONCLUSIONS

According to the conducted research, tax evasion is connected with the occurrence of conflict between the State in the person of tax authorities and taxpayers and is expressed in the form of crimes and infringements of the tax legislation. These wrongful acts, in their totality, are characterized by intensity, stability, and latency, as well as substantial damage inflicted on the state. Despite the efforts made, the amount of tax evasion continues to remain at a high enough level. The reasons for this are several: a significant level of the tax burden, imperfections of the tax legislation, the size of tax sanctions is not always justified, many cases of impunity for tax offenses, as well as low tax culture of the population.

The state policy on clamping down the tax evasion should include a set of measures to reduce the level of the tax burden, to improve the tax legislation, tougher liability, to improve the tax administration and the formation of tax culture.

To prevent the tax evasion, the state needs to take measures primarily to stabilize the economic situation, this measure is one of the most important factors for both: the development of small business and the exit of small enterprises from the shadow sector. Improvement of legislation in this area will also have a significant impact, both in the area of support for small enterprises and in the area of toughening penalties for non-payment and tax evasion.

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