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Tax Evasion, an Integral Part of Corruption

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Abstract: State budget is considered to be the instrument of achieving social and economic objectives, with the ability to mediate its subsidies and tax incentives. Lack of funds, which are part of budget income, leads to incapacity of achieving the state duties, and this is the result of taxpayers avoiding to pay taxes. The need for delimitation between unlawful and lawful tax avoidance makes it useful to estimate the size of the phenomenon on its two forms of expression and raise awareness among political and administrative decision makers, in order to search and determine appropriate methods to limit and combat the phenomenon.

Keywords: tax evasion; tax law; corruption

JEL Classification: E26; K42

1. Introduction

The most frequently used definition of tax evasion is “*the art of avoiding to fall into the attraction field of tax law*” (Hoanta, 1997, p. 218). From this interpretation, tax evasion is, in most cases, compared to fraud. Because of this interpretation, the state loses its blameworthy characteristic, enabling its taxpayers to escape paying taxes.

2. Fraud and Tax Evasion

Fraud and tax evasion are considered to be means to dodge in front of excessive fiscal pressure. Among the main forms of evasion used in various countries we can include: benefits in kind (company car, generous allowances) that are provided by employers to their employees to reduce their tax bases and implicit taxes. Tax fraud is the fraudulent various processes that can reduce income or benefits. Tax evasion is largely linked to countries with favorable tax and social legislation. It also encouraged the creation of free zones. Free zones are territorial enclaves which have extraterritoriality customs as benefit and escape totally or partially, by national laws.

Tax evasion covers all categories of economic agents: firms, public or private administrations, and refers to a very broad range of issues, covering both general issues and specific components. Due to the existence of tax evasion, there will be a direct and necessary decrease of state revenues. As a consequence of reduction in state revenues, there will be a lower state budget, which can not cover the

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demand for state financial funds necessary to fulfill its basic functions. As a result of these shortcomings, the state should take immediate efficient measures, which leads to increased tax rates on existing taxes, and the creation of new taxes and fees. But the introduction of a new tax or increasing the rate of an existing new tax can only reduce the affordability of tax duties, traders escaping the main objective under the new fiscal constraints they are subject of, obviously through methods more or less ingenious, legal or moral).

3. Techniques of Tax Evasion

Numerous techniques of tax evasion are related to the taxpayer's rich imagination, using financial engineering and a series of artful and subtle combinations. Due to the absence of a clear and accurate tax legislation, is it difficult for taxpayers to circumvent the state, leading to tax evasion. After frequent changes in laws, taxpayers seek permissive facilities, even for a short period to circumvent the rule, resorting to unorthodox practices. A form of fraud, with a relevant incidence within economic crime refers to deficiency in civic taxpayers, and the excess of the tax organizations, which are sometimes prone to violation of rights of taxpayers. This form of fraud, with relevant implications in economic crimes will be shown below, both the notion of trying to tackle tax evasion with its imperfections and framework and its forms in our country and internationally. Budget revenues recorded increases, with increasing taxes, but the subsequent increase over the optimal level of taxation may produce adverse effects, characterized by increased levels of taxation, became burdensome and disincentives and increase the tax effect is canceled by restricting the tax base, reflected in lower revenues. Direct expenses shall be made in budgetary resources, as well as some way of renunciation state budget revenues due to it under the laws in force. Grants are awarded by the state to certain economic and social categories, which are considered to be disadvantaged, but need these financial "helpers". By giving tax breaks a number of measures designed to stimulate certain economic activities, foster regional shares or interest, or to benefit certain individuals. The measures take the form of tax benefits - exemptions, reductions and deferrals of direct taxes, the public authority shall pursue for certain government or local programs (Cretoiu, Cornescu & Bucur, 2001, p. 223). These subsidies and tax exemptions are granted only if sufficient funds from the state budget provide the money for those social categories to be able to give up some revenue budget granting tax exemptions and reductions). Due to the large share of tax evasion, which is the main cause of low income from the state budget, as the performance of the national economy is very low, the state budget shrinks considerably, these government programs cannot be carried out and, consequently, those social groups who need the financial support of the state and should receive it, may not receive these financial funds at all. As a consequence of these decisions, negative social effects can be observed, namely the standard of living of certain social categories decreases, these people being deprived of state aid. Oversized tax avoidance can occur in three ways:

- the law provides tax evasion itself through the tax system favors;
- failure to achieve business taxpayer, taxable transaction or act, this action is common in case of excessive taxation because marginal tax rate becomes very high and the taxpayer prefers to refrain from providing an additional unit of labor;
- use the tax system gaps.

Corruption of public officials control is another important factor favoring evasion.

Bribery of staff with the finding of evasion, receiving a portion of the proceeds benefiting the taxpayer by avoiding the payment of tax obligations by the state are frequently used methods.

The possibility of state intervention in certain areas is another favouring cause of tax evasion. Supporting and maintaining subsidies for some products over a long period of time, has given the possibility that some businesses focus their work in the fields where the state offers subsidies.

Illegal activities of companies had as a starting point to set up companies in disadvantaged areas aimed at entitling them to benefit from these facilities. Businesses balk at tax obligations because in reality, economic activities are not performed in the disadvantaged areas.¹

4. Forms of Tax Evasion

By the way it is committed, tax evasion may know two forms of expression:

- legal evasion (sheltered by law);
- fraudulent evasion (illegal).

In order to define this practice, the question of delimiting the law avoidance is arising, where avoidance is permitted by law, and fraudulent evasion is not. In these circumstances, the boundaries are not always clear and there is a grey area of absconding. There are some arguments which claim that certain types of (lawful) taxation avoidance are as wrong as fraudulent evasion and therefore they should be treated similarly. (Cristus, 2011, p. 2)

But in practice, it is quite difficult to distinguish lawful from the fraudulent tax evasion, since between legal and illegal, there is not a break, but rather a continuity, successive attempts to exploit loopholes in the law resulting from the legal taxpayer to the illegal.

Tax evasion is facilitated by:

- granting of tax incentives in the form of exemptions, partial exemptions, rebates, deductions and so on;
- granting temporary exemptions delineated, establishment of new companies;
- removed from the scope of the related income tax deposits and those from investments in bonds issued by the state;
- the failure to overheads of companies, which create temptation of overvaluing by their unjustified economically raising;
- imposing income of certain categories of individuals on the basis of average income rules, for taxpayers who earn incomes higher than average, not to pay tax on the difference;
- conditions for taxpayers deriving income higher than average, do not pay tax on the difference;
- exploiting loopholes in the law etc.

In practice, acts of tax evasion based on favorable interpretation of the law (legal tax evasion) are varied and many, depending on the ingenuity of taxpayers and the confusing nature of the law.

Fraudulent evasion takes the following forms:

a) traditional evasion (by concealment), which consists of partially or entirely removing the payment of the tax, or by completing and submitting incorrect documents, or by failure to produce documents required by law.

This form of fraudulent evasion involves a series of processes, including:

¹ Documentary Fund MPF-NAFA *Note summary on European tax fraud*, 2004.

- failure to produce tax declarations or fake their preparation;
- purposeful reduce of revenue in order to diminish the VAT and profit tax, the cash receipts and sales receipts with no invoice;
- willful growth of expenditures to diminish the taxable profit;
- production and marketing of goods and services clandestinely;
- professional activities clandestinely rewarded (black);
- reducing the value of inheritances received and transactions with real estate etc.

b) legal evasion, which is to hide the true nature of an organism or a contract (for example, when a contract of association is secretly converted in a contract of employment for its beneficiary to obtain certain advantages as an employee, or vice versa) to get rid of certain tax consequences;

c) accounts evasion, difficult to identify in practice, which creates the impression of a correct accounts, using false documents in order to increase spending, reduce revenue, reduce taxable income and therefore the tax liability owed to the state;

d) evasion through evaluation, which consists in the reduction of inventories, overestimation of amortization and provisions, in order to drive profits in the future.

Based on the overall evolution economic-financial crime, the promotion of a new law to prevent and combat more effectively these types of offenses was imposed by necessity.¹

The alarming increase in crime on the financial-fiscal, economic, banking, customs and accounting resulted in the development and adoption of new regulations on the prevention and combating this phenomenon, which represents a high degree of social danger (Pocora & Pocora, 2014). In terms of economy, forms of tax evasion influences competition, meaning its distortion. Companies that commit fraud can penetrate market segments by charging lower prices than those who fulfill their tax obligations. Capital accumulation in the same effort has faster growth, ensuring financial capital that can be placed effectively by domestic or international financial requirements or used for expanding the production and marketing. (Hen, 2007, p. 196 and the next)

The most important role of fiscal policy is to eliminate factors that favor the development of economy, causing “slipping” business firms towards the so-called “gray zone” of the economy. (Hoanta, 1997, p. 292)

The means used to find the most suitable solutions, economically and socially speaking, in terms of its financing are very different and sometimes aims for connotations related to political will: reduce tax evasion. The relationship between fraud and peddling influence is close, due to which legal practice finds difficulties of boundary (Pocora, 2013, p. 149). In these circumstances tax evasion is an important driver of social inequity and distrust in the government payers. Because of social, economic, political factors, tax evasion causes a pronounced distrust of taxpayers in political powers, especially those that are responsible for that government.

5. Conclusion

In this respect, *“specialists in the field of taxation reached the unanimous conclusion that tax evasion is even more fearsome as the tax is higher. That is why for any state to achieve its revenue, it is necessary to scale and distribute public tasks in such a way so that any taxpayer should be able to pay their taxes in full and on time.*

¹ Law no. 241/2005 (Official Gazette. No. 672 of 27 July 2005.

Disregard of such viewpoint makes the tax system inefficient. Thus, regardless of the inspector's training, or the size of sanctions, it is likely that the state fail to collect the required taxes from its taxpayer. Any payer would, in these circumstances, all he/she can to get rid of such unbearable hardship and one of the means is just tax fraud." (Munteanu, 2003, pp. 336-337)

At national level, because of these problems, serious imbalances in the state budget appear, imbalances arising between the actual level of budget revenues and the expenditures that have been set on a wrong basis.

Tax evasion may be countered if the law included at least two things: a code of inspection conduct, in order to avoid discretionary behaviors –situations when inspectors take bribes or behave abusively, and secondly, it has been stated that controls must be based only on existing regulations and published in the Official Gazette.

In conclusion, as long as there are orders and recommendations of the Ministry of Finance to carry out checks on various subjects, a transparent relationship between firms and the ministry cannot exist.

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