

THE INFLUENCE OF THE TAXATION POLICY ON THE ECONOMIC AGENTS ON THE EUROPEAN VIEW. THE DIRECT TAX – VALUE ADDED TAX

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Abstract: The fiscal system acts upon all the enterprises, so, the influence upon the economic - financial performances appears at all the levels of the economic agents. At first sight, the tax action upon economic - financial performances manifests in the same modality, regardless of the company which refers to. This standardisation of the way the tax policy acts upon the economic - financial performances of the companies starts from the idea that the law is the same for everybody. Really and truly, but not everybody understands the law in the same manner, not everybody can take advantage of some facilities (not always very easy to remark) offered by the law.

Key words: the taxes, the value added tax, fiscal policy, economic – financial levers.

1. The use of the taxes as economic – financial levers

The state aims to collect financial funds for the budget instituting of the taxes. If we refer to economic agents, taxes, representing a drawing of financial funds from their disposal at state's disposal, have as effect the decrease of economic - financial performances. Levying taxes is, in conclusion, one reality of the contemporary economy. If we start from this idea, how is it actually possible that the taxes act as a factor of dynamic increase of the company's performances? One answer to this question can be given by the economic – financial levers point of view. These actions are taken by the state, and their goal is to fulfill some economic functions, contributing to solving some problems on economical bases rather than conditions in which would be appealed to administrative methods. Instauration of some legislative regulations in the fiscal area, which has a positive influence upon certain aspects of the economical activity becomes an economic lever.

Fiscal levers used for acting upon the increase of the economic - financial performances of the company don't have an imperative character for all the economic agents, but they don't enclose their possibility to benefit of them. To do this, economic agents have to fulfill certain conditions or to accomplish certain activities.

In the following lines, we will present a series of fiscal measures which had the role of economic – financial lever in Romania.³

Income tax represents one part of the company's profit which is transferred at state' disposal. However, through one series of regulations which were adopted during the last period of time, the income tax has the role of economic – financial lever, too.⁴

Allowing cutting down or exemption from income taxes aimed at a double benefit both for the state and for the economic agents, accordingly:

- allowing exemption from profit taxes for a certain period of time from the setting up of the company (starting with 1991 until 2006) intended, from the state point of view, to develop the private economic field which can develop their activity, the tax being recovered afterwards, indirectly, as a result of increased taxation of some future profits. The benefit at the company was having at their disposal all the profit achieved, in this way providing additional cost-free financing.
- by cutting down with 50% of the amounts spent from the profit for the investment financing, which are meant to develop and modernize the manufacture technologies or to protect the environment (from 1991 until 2006), the state meant to influence in a positive way the

³ Vacarel, I. si colectiv, Finante publice, 3rd Edition, EDP, Bucharest, 2004, p. 82

⁴ Nemeș Juraj, Wright Glen - Finanțe publice - teorie și practică în tranziția central europeană, Ed. Ars Longa, Iași, 2000, p. 157

investment behavior of the economic agents and to make the invest towards environment protection. They meant to increase the competitiveness between the economic agents, to increase the investments nationally, to protect the environment. The possible tax losses of the state could be made up for indirect taxes due to the increase of the expenditure (through acquisitions), for taxing future profits (increased as a result of the growth of the economic agents profitability), diminishing the expenses of environment protection. The economic agents benefit, through the decrease of the tax to be paid, from an additional, cost-free means of finance. In addition, the support of the investments, retechnologisation were meant to increase the economic-financial performance of the economic agents.⁵

- cutting down the income tax for the economic agents who created jobs for the handicap persons, is for the state an economic-financial lever which can get to the integration of the handicap person in the professional environment (the benefit of the state is the reduction of the costs for their social protection).⁶ As a result of these jobs the economic agents profit of an additional finance source, and by diminishing of the income tax the profitability rose.
- the practice of a low tax rate for the profit got as a result of customs taxes was an economic-financial lever by which the state wanted to increase the export and to bring foreign money currency into the country. The economic agents who exported goods could benefit after this facility with additional financing (the difference between the normal share and the reduced share) or with the possibility to establish low delivery prices
- allowing exemption from profit taxes for the economic agents which made important investments in economy and the state meant to increase capital invested in Romania, especially foreign resources, so that the taxes were brought back indirectly from the taxes for salaries from the new jobs, from future taxes from well developed business.
- allowing exemption from taxes for agriculture was meant to develop the agricultural area in Romania, the development of the investments in this area, the economic agents benefiting from a tax cut back.

Other economic levers which acted in the profit tax area were the possibility to choose one or the other method of liquidation, especially in profitable investments or the possibility to choose between profit tax, income tax (tax for the income of small enterprises), building free area of poor areas.

By using tax profit as an economic-financial lever, the state wanted to ensure a viable economic climate, the increase of investments, making new jobs, the development of export, the development of certain fields of activity, of certain geographic regions, left behind from the economic point of view.

The economic agents' advantages were especially the possibility to benefit by an additional source of autofinance, increase of profitability, as a result of both the reduction of the profit tax to be paid and the creation of development premises as a result of new technology and means of production acquisition.

Still, we have to mention the fact that the tax reduction is diminished a lot nowadays because of the EU requirements to renounce to give tax reduction so that Romania can be a part of EU.⁷ Also, the tax regime must be similar for all the economic agents.

Other categories of taxes have also been used as economic – financial levers. Thus, establishing some taxes excise on certain products categories has as a goal, beside collecting incomes for the budget, influencing consumers' behavior.

Practicing high customs duties has the goal to protect some branches of the national economy as consequence of prices increase at which the products can be commercialized in the country in which they are taxed (after 1990 there have been made pressures upon the Government, specially by the alimentary producers, for the customs duty increase in case of import products because they were commercialized on the intern market at lower costs than the intern products and, in this way, the effect could be the crush of the intern economic agents).

⁵ Tătu, L. Serbanescu C. Stefan D. Catarama D. Nica A., *Fiscalitate de la lege la practica*, 2nd Edition, All Beck Publishing, 2005, p. 96

⁶ Tătu, L., *Influenta folosirii pârghiilor fiscale în diminuarea cheltuielilor de personal ale unei firme*, Studii Financiare, anul VIII – Serie noua, vol 1(27) / 2004, Academia Română, CCFM „Victor Slavescu”

⁷ Tătu, L. Catarama, D., *Masuri luate de România în vederea alinierii cuantumului accizelor la prevederile Uniunii Europene*, Revista Finante, Banci, Asigurari, nr. 6/2005

2. The use of regulation in the fiscal domain as administrative methods of influence on the economic agents performances

The intervention of the state through taxes upon economic – financial performances of the economic agents manifested as a consequence of adopting some administrative measures. Among other administrative methods with incidence upon company's fiscality which acted or are still acting in Romania, we can remember: financial – fiscal control and the punishment of the tax dodging, applying some estimate methods established by state for fixed means, establishing a fixed means depreciation system, without taking into consideration the specific characteristics of economic agents, granting exemption from taxation, prices reduction, postponings, spreadings of the tax paid for certain economic agents, making grants (negative taxes) etc.

Securing one efficient financial – fiscal checking can have as effect assuring a competitive climate from a fiscal point of view. Thus, economic agents who carry on their activity abiding the law can acquire higher financial – fiscal performances as a result of diminishing disloyal and illegal competition from economic agents who are not abiding by the law.⁸

Establishing some evaluation methods which doesn't take into consideration the profitableness brought by certain fixed means, but only their physical characteristics can lead in some economic agents case at overestimation, and in others' case at underestimation. In this way, influences on companies' economic – financial performances appear as a result of using reevaluation as an administrative method.

Making exemption from taxation, price reduction, spreading out again, postponing deadlines for paying taxes, making grants only for certain economic agents represents an administrative measure with positive effects on some economic agents, but with negative effects on business environment.

3. Grands regarding indirect taxes in European Union

3.1. Indirect taxes

Indirect taxes harmonization was one of the main objects of the European Union in the fiscal domain. Thus, the 93rd article of the constitution treaty of European Community asks to harmonize the turnover tax, excise and other indirect taxes.

3.1.1. Value added tax⁹

Value added tax was introduced in 1970 in European Economic Community by 1st and 2nd directives. It replaced different taxes on production and consumption which burden commercial exchange between states. In 1977, through the 6th directive the foundation of value added tax harmonization in the EU states is established. Through this directive¹⁰ a common assiette for this tax is established in the EU states. Also, this directive is no less than a law for the VAT foundation in the European Union.

As a result of the 6th directive the foundation of a working program towards the elimination of the borders for the VAT is established. The 6th directive was lately modified¹¹ to eliminate the fiscal borders and to adapt the VAT to the exigence of a border-less market. The changes established a VAT transitory system.

The elimination of fiscal borders required the harmonization of the VAT tax rate¹². According to new stipulations established by 92/77/CEE directive, the EU members could apply the following VAT rate: normal tax or two reduced taxes. It was established that the normal VAT share should not be less than 15%, and the reduced shares should not be lower than 5%.

⁸ Tătu, L. Serbanescu C. Stefan D. Catarama D. Nica A., *Fiscalitate de la lege la practica*, 2nd Edition, All Beck Publishing, 2005, p. 103

⁹ At the basis of realizing this chapter is T Mosteanu, D Catarama, L Tătu, E Câmpeanu, *Politici fiscale si bugetare europene*, Universitara Publishing House, 2005, Chapter 5. Value Added Tax. Regulation and harmonization

¹⁰ Directive 77/388/CEE /17 May 1977 regarding the harmonization of member states in turnovers taxes.

¹¹ Directive 91/680/CEE / 16 December 1991 regarding law adjustments on VAT common system and Directive 92/111/CEE /14 December 1992, regarding simplification measures of legislation in VAT domain.

¹² Directive 92/77/CEE /19 October 1992

The reduced taxes can be applied to the products from Annex H in the 6th directive¹³. The increased taxes for VAT are removed, but in a transitory manner are still maintained: zero tax or super-reduced tax (lower than 5%). Also, it was established that for certain products (except the ones in Annex H¹⁴ and for which the reduced tax is applied from 1st of January 1991) to be applied a reduced tax which should be lower than 12% (parking tax).

The Value Added Tax level in European Union on 1st of September 2004 is shown in Table 1.

Table 1: VAT level in EU member states on 1st of September 2004

Statul	Super reduced tax	Reduced tax	Normal tax	Parking tax
Austria	-	10	20	12
Belgium	-	6	21	12
Czech Republic	-	8	19	-
Cyprus	-	5	15	-
Denmark	-	-	25	-
Estonia	-	5	18	-
Finland	-	8/17	22	-
France	2,1	5,5	19,6	-
Germany	-	7	16	-
Greece	4	8	18	-
Ireland	4,3	13,5	21	13,5
Ireland	-	5/12	19	-
Italy	4	10	20	-
Letonia	-	5	18	-
Lithuania	-	5/9	18	-
Luxemburg	3	6	15	12
Malta	-	5	15	-
Great Britain	-	5	17,5	-
Poland	3	7	22	-
Slovakia	-	-	19	-
Slovenia	-	8,5	20	-
Spain	4	7	16	-
Swedan	-	6/12	25	-
Netherlands	-	6	19	-

¹³ It's about schedule Annex H of Directive 77/388/CEE, amended by Directive 92/77/CEE. Among the goods that can make the object of parking tax application there are: living animals, cereals, plants, food products (excepting alcoholic drinks, water distribution, drugs, medical equipment,) person and luggage transport, book delivery, etc).

¹⁴ It's about schedule Annex H of Directive 77/388/CEE, amended by Directive 92/77/CEE. Among the goods that can make the object of parking tax application there are: living animals, cereals, plants, food products (excepting alcoholic drinks, water distribution, drugs, medical equipment,) person and luggage transportation, book delivery, etc).

Ungaria	-	5/15	25	-
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Source: DGTAXUD, DOC/2008/2004 – VAT level in EU member states on 1st of September 2004

Compared to the European Union' forsihts, Romania respects the regulations regarding taxing level: normal level 19% and reduced level 9%.

VTA taxing principle at European Union' level is the one of consumption (goods' destination), meaning the value added tax is gathered on delivery of goods and carrying out services in the state in which they are consumed. There are also tax obeied the importaions. This principle is regulated by Romanian legistaion¹⁵.

In 1996, July, The Committee presented an acceleration programme¹⁶ of passing from the transitory regim of VAT to final commom regime. There have been established one series of measures regarding VAT, basis tax, exonerating, national law principle etc. After the reticence of the member states regarding the suggested measures and the manner in which they can be approved, it was decided, in 2000, to be established a new long term strategy which would hint to ameliorate the VAT system functionality in the Common Market' cadre. This strategy regarding VAT¹³ vises simplifying, modernizing, the unifrom application of the existing rules and a better administrative cooperation. In 2003 balance sheet¹⁴ of the action programme achievements has been done (proposed in 2000).

Among the programme achievements there have been mentioned:

- annulment, after 1st of January 2003, of the possibility for the member states to impose to the intra-community operators the obligation to designate one fiscal official for the operations effectuated in other member states beside the ones in which they are settled;
- after 1 January 2003 all the tax payers (resident and nonresident) have the right to hand in a VAT statement in electronic form; it has been established the legal frame for electronic invoicing and electronic invoice storing;
- to carry out a proposal regarding the standardization of VAT reduced level and its sphere of activity;
- Romania, in the European Union integration context, intended to adopt a legislation according to EU' recommendation. In this way, true to European Union' negotioations, there have been adopted regulations regarding value added tax which come into effect at the date Romania integrated.
- The main reason for the introduction of these new regulatios is the following¹⁷:
- standardization of the legaslation with the one in the EU regarding intra-community agreements;
- to put in order the right to VAT deduction;
- to introduce the special regime for the agricultural producers, simultaneous with the remove of exemption from VAT for this activity;
- to introduce the special regime for the art objects, collection or antiquity, second hand goods, goods sold by public auction;
- special regime for gold investment;
- introducing new stipulations for VAT pay-back for the acquisitions made in Romania by taxable persons from the EU community and third party countries, elimination of exemption from taxes which are not conformable to the stipulations in the 6th directive of CEE (77/388), meaning: exemption for non-repayable founds given by international organism or foreign governments; VAT exemption for commodity exchange; VAT exemption for veterinary medical care; VAT exemption for river transport for the citizens from the Danube Delta and from the areas of Orşova-Moldova Noua, Brăila - Hârşova, Galaţi – Grinda; exemption with the right of deduction of religious buildings; VAT exemption for the activity of research, development and innovation;

¹⁵ See Law no. 571/2003 regarding Fiscal Code, later amended and completed

¹⁶ This program has been carried on in five stages between 1996 and 1999. ; COM (2000)348. ^ COM(2003)614-Balance sheet of VAT strategy achievements

¹⁷ www.mfinante.ro - establishment note amended Fiscal Code from 22 December 2004

- introducing tax exemptions allowed by the directive which are not stipulated in the national legislation, such as: VAT exemption for the construction delivery which are seen as new and land delivery; VAT exemption for the services carried out and deliveries of secondary goods made by the public mail service; VAT exemption for the teaching lessons carried out by teachers to help the scholastic or university environment; VAT exemption for postal stamps used inside the country.

For the good functioning of the VAT system in the European Union it was necessary to create a common information exchange system between the EU member states. This system is necessary especially in the case the provider of the goods and the ones who purchase the goods are in different states¹⁸. According to this system each member state must create a main department whose sole purpose should be the contact with the other member states and information exchange between them.

This department belonging to a member state can require to any other similar department of any other member state information necessary to a correct VAT evaluation. In the case the authority who was required information considers necessary to make investigations in the VAT area, the representatives of the authority who required information can take part in these investigations.

Also, the representatives of the departments of the states involved can take part in the common check-up when it is considered necessary that the investigation is made by the representatives of the authorities of both countries, rather than by the representatives of only one member state.

To make the information exchange more efficient every state member it must have an electronic data base which contains the information kept for a period of at least five years after the end of the financial year in which the events happened.

Having its roots in the French practice at the end of the 7th decade, 20th century, the value added tax is, nowadays, a fiscal lever which operates in all the European Union states, as well as in many countries outside the EU territory.

From the fiscal point of view, VAT has certain specific rules, which applies downstream upon the operation of the enterprise with its clients and the VAT exemption is admitted due to the upstream transactions with its contractors, while from the accountant point of view, VAT is neutral for the enterprise.

European Union directions are transposed in the Romanian laws through law 343/2006, and to change and complete law 571/2003 – Fiscal Code and intends to introduce the terms: intra-community good acquisition, intra-community delivery, intra-community transfer and intra-community non-transfer.

VAT is nowadays, one year after the adhesion, an equation with „n” variables for the majority of the tax payers. This situation is maintained by the unstable and hazy legislation, on the one hand, and by the persons responsible for giving the right answers, on the other hand.

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