

## CORPORATE INCOME TAXES. EVOLUTIONS

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*Abstract: taxing the income of the companies has been an important issue for the last two decades, from the point of view of the budget and of the influence of the tax on the economic environment and on the society in general.*

*Key words: tax, evolution, conciliation of the result*

With the Law of the commercial companies - nr.31/1990, the state enterprises turned into commercial companies and autonomous public corporations, and the small enterprises partially became commercial companies.

The corporate income tax was conceived to be a progressive one, composed by a rising fix amount and an amount calculated by applying increasing tax rates. Tax rates were between 5% and 77%. One may say this law affected the enterprises by an excessive taxation. This taxing method was lively criticized, and the HG<sup>1)</sup> 804/1991 introduces a new way of calculating income tax as a proportional tax, calculated with a 30% rate for the taxable incomes of less than 1 million ROL and a proportional tax of 45% for more than 1 million, the tax base being thus split in two.

This taxing method brought a fiscal pressure of about 40% for an income of 3 million ROL whereas the first method brought this average fiscal pressure only when the taxable income reaches 100 million ROL. Although it seems that the method of the two-rate tax aimed to increase the neutrality of the tax, this principle was distorted by the fiscal facilities granted. In this period, the number of private commercial companies increased vertiginously, not as a consequence of the raise in the economic potential, but mainly because of the fiscal facilities granted. Granting fiscal facilities meant to create a healthy private sector and to attract foreign capital. Temporary tax exemptions were granted, differentiated on objects of activity, to encourage creation of new private commercial companies; but many of the newborn companies were really taking on the activity interrupted in the companies that no longer benefited from the temporary exemptions.

Also, deductions of the tax base were granted, for the incomes used to improve quality of products and to advertise and promote, a deduction of 50% was granted for the tax on the profit that is reinvested to get supplementary profits; this deduction expired in two years time if the goal wasn't reached.

A 25% deduction was granted to foreign capital companies that imported energy and fuel for their activity, used Romanian equipments for investments, created at least 50 new jobs through investments or through modernization of their activity, made exports, and performed research.

Although many of these facilities had a contradictory nature, such as the acquisitions of Romanian equipments that on one hand generated a new investment, and on another limited performance in some fields, yet the goal was to increase the productive potential. As any advantage, these facilities generated discrimination – the domestic capital companies had not the same advantages. A deduction was granted to the income tax for the companies that employed physically disabled people, depending on their percentage in the total number of employees.

All these facilities created difficulties in the calculation and registration of the fiscal obligations. They proved to be encouraging for the commercial companies, but only partially. Too many advantages and feeble results, maybe also due to too many exceptions from the basic rule, which caused discriminations more important than the advantages received.

Beginning with January 1<sup>st</sup> 1995, through the OG<sup>2)</sup>, the income tax was rearranged as a proportional tax with a rate of 38%, some exception being made – 25% for taxpayers whose income came more than 80% from agricultural activity, 80% for the BN.

Two additional rates were created, one of 22% applicable to the taxpayers whose income came for more than a half from gambling, the other of 6.2% for the foreign legal entities that developed commercial activities in our country.

For the small taxpayers, the taxable income is calculated by adding to the result of the exercise the non-deductible expenses and subtracting the legal deductions.

OG<sup>2)</sup>/1994 does not revoke the tax facilities of HG<sup>1)</sup>804/1991, thus: the exemption periods remained the same for the companies established before January 1<sup>st</sup>, 1995, that had been granted these rights. We find these facilities under the name of tax credit, a denomination that includes the deductions for the employers of disabled persons, for the reinvested profit, as well as the external tax credit.

The external tax credit represents the tax paid abroad, it will work in a way to avoid the double international taxation – the common credit procedure.

For the big taxpayers, the taxable profit is calculated as the difference between the net assets at the end of the year and the net assets at the beginning of the year updated for inflation, plus the non-deductible expenses and the distributions paid to the owners during the fiscal year, less the tax deductions, all these also updated for inflation.

Thus, the income tax for the big taxpayers affects the variation of the increase of the assets in a fiscal year.

Tax payments are made monthly by the small taxpayers, and the big taxpayers have to make monthly for payments of their due annual tax.

It is also important to notice the different fiscal treatment of the tax deductible amortization for the big taxpayers and the small ones.

For the small taxpayers, fiscal amortization was the economic amortization included in costs, depending on the degree of utilization, without being updated for inflation.

Fiscally deductible amortization for the big taxpayers was calculated considering the six fiscal categories of the fixed assets, the settling of some rates of fiscal amortization, the updating for inflation of the existing fixed means and the ones acquisitioned within the year, these being influenced by their utilization rate during the fiscal year.

There is another discrimination between the two categories of taxpayers: for the small taxpayers, a 50% deduction on the profit tax is granted for the sums used in updating processing technology, enlarging the field of activity, and in environmental protection.

After 1997, the distinction between small and big taxpayers disappeared, as the technique of updating for inflation, the system of fiscally deductible and economic amortization as well as the differentiated periods of loss reporting became uniform, and the payment terms of fiscal obligations were modified. In fact, the technique of profit tax became almost identical to the one applied before with small taxpayers.

The deduction remained, and the additional rate of 22% for profit obtained from gambling, clubs and pubs would be applied only to the profit obtained from these activities, thus lowering the marginal tax rate for such activities of small importance in real economy.

In order to attain social finalities, the deduction on imports for the companies with over 250 employees and at least 3% disabled persons hired was maintained, proportionally with their share in the total number of employees.

The deduction of 50% on the income tax on exports aims to encouraging the companies to sell abroad; the same level of deduction is maintained for reinvestment of the profit in technology improving or modernization, in order to stimulate investments. The Budget Law of 1997 ended the deduction on exports for budgetary reasons.

Cumulated deduction cannot exceed 50% on profit tax calculated before the deductions, and this is meant to ensure a certain level of the budgetary incomes.

Starting with 1998, expenses for advertising and promotion became deductible on the whole, and the losses reported were to be recovered in five years time.

These alterations of the Tax Law after 1997 regarding the amortization system, the treatment of the non-resident tax payers, the deduction system, marked a step ahead in profit taxation, but the issue of letting go of the “big taxpayer” attribute has other connotations too, beside the positive fact of simplifying the technique of tax calculation.

The object of the tax for the big taxpayers was the variation of their assets and this really showed the true evolution of the capital of the company and the quality of its activity, in inflation conditions; for the small taxpayers there was no more the matter of updating for inflation, and thus the evolution of their assets had no true representation. In inflation conditions, some elements of the costs are under-evaluated compared to the results that will be expressed in prices more or less of the day, overestimating the profit of the company, which represent the most important part of the tax base. Material consumptions will be evaluated at the historic price, moreover the labor expenses and expenses assimilated to salaries don't watch the prices evolution. On the other hand, prices are continuously rising and their evolution shift the evolution of the prices of production factors which are insured sometime in advance. Linear amortizations create the same phenomenon of over dimensioning the result and taxation of a false rising, and this means an arbitrary sanction of a part of the turnover which does not represent the true growth of the total assets.

If the elements of the tax base were updated in current prices supported by an inflation accounting system, a positive result would show the real net capital increase based on its fructification. Thus, we witness a hidden decapitalization on behalf of the taxation, very damaging both for the economic agent, for the state, and for the need for the capital and for investments is important in real economy.

Small tax payers are in such a situation nowadays although they get a positive accounting result, this is not a rise, a phenomenon which is best illustrated by the lack of liquidities (it has, however, other causes too). To lessen this negative influence, the net result should be at least at the level of such extra-accounting losses (capital evaporation), and the rate of the net profitability should be at least equal to the price index of the respective products. Thus the tax on profit turns into a punitive tax for the economic agents with positive results.

Beginning with the year 2000 this tax was recalculated to diminish the fiscal pressure. Thus, the base rate was reduced to 25% and a series of facilities have been granted to the investors for the investments made that year, part of which were deductions for the taxation base.

Through OG 70/1999, the tax on profit will again be recalculated and again through OG 414/2002, with major changes in the taxation base, regarding the number and the kind of the expenses fiscally non-deductible. Most interesting were the reglementations regarding the difference between the non-deductibility of the prices lower than production costs or than market prices for the goods, services and works implied.

The issuing of the Law 571/2003 – The Fiscal Code, fiscal legislation concentrated in a larger and unique source of information. This law has been modified more than once since it was issued.

That is, the use of OG (governmental ordinances) generated more adjustments of the Fiscal Code. In 2004, this document was modified by OG 83/2004, OUG (urgent governmental ordinance) 123/2004, OUG 138/2004. For these changes and for others, Law 163/2005 was promulgated. In 2006m OUG nr. 21/2006 and Law 343/2006 were issued and, in 2007, OUG nr. 155/2007.

These legal adjustments brought about a lot of problems to be solved from the fiscal point of view, and from the point of view of the accounting result, the problems of the reconciliation of accounting and taxation rising several specific topics.

The relation between taxation and accounting is based on a tight connection and aims to their disconnection on one hand; accounting is a source of information; on the other hand, the two are based on different principles and rules.

Each tax payer as a legal person or as a authorized natural person, makes financial statements and fiscal declarations, as they are, moreover, obliged by the law in power in this field. Thus, item 12 from “Methodology for application of Law 571/2003 regarding the Fiscal Code”, approved by HGM 44/2004, stipulates: “the incomes and expenses taken into account in establishing the taxing income are those registered in the accounting books, according to the accounting regulations in the Law of accounting nr. 82/1991 as any other elements similar to the incomes and expenses, diminished by the non-taxing incomes and increased by non-deductible expenses, as in art. 21 Fiscal Code”.

The base of this relation is directly connected to the calculation of the taxing income as a taxing base for the tax on profit. As it is known, the legislation regarding the tax on profit changes at short time intervals, while accounting regulations have a slower dynamic.

As the fiscal law differs even by the simple adjustments from the accounting one, the instrument of adjustment – reconciliation is the fiscal statement, through which the accounting result is adjusted at the level of fiscal requests.

Accounting, in its turn, offers a solution of reconciliation between the two results, by applying the IAS 12 – tax on profit. This standard presents the modality of reconciliation between the fiscal profit and the accounting one, and the instrument used in tax on delayed profit; also for intermediary reports, IAS 34, intermediary financial report is applied.

The accounting result is known to be determined by the closing of the income and expenses accounts, following recognition in the result of the exercise, according to the accounting regulations.

Yet, as a rule, fiscal results differ from account in results and in these cases to determine the tax on profit, the information from accounting registrations must be processed; this is made by a fiscal book which must contain all the adjustments of the accounting result in order to determine the taxing profit and, implicitly, of the due tax on profit.

In order to determine the delayed tax on profit, the economic agent must admit a debit or a credit, when it is possible that the recovery or repayment of the accounting value of an asset or of a debt may determine bigger or smaller future payments for the tax on current profit, that their would-be value if such a recovery or a repayment would not have fiscal consequences.

The accounting-fiscality reconciliation, in the context of this standard imply a certain treatment regarding the financial immobilizations, stocks, depreciations and provisions, own capitals, expenses with interests, incomes from differences in currency rate, accounting recordings of the tax on current profit and those of the postponed one and other linked to the assets and liabilities of the company.

The main goal of the scientific approach in this field is that of discovering and defining the connections that generate organizing potential and efficiency between the taxes of the present fiscal system and the connections between the parts of the fiscal authority and between the fiscal authority and the tax payers.

### **Bibliography:**

1. Constantin I. Tulai, “ Public finances and fiscality “ , Scince Book Publishing House , Cluj Napoca, 2005.
2. Ioan Dan Morar, “ The Romanian fiscal system. Tradition and capacity of adaptation “ , Dacia Publishing House , Cluj Napoca, 2000.
3. Codul Fiscal – Legea 571/2002 si completarile ulterioare
4. inclusiv:l.343/2006,OG 106/2007.
5. Codul de procedura fiscala.
6. [www.mfinante.ro](http://www.mfinante.ro)