

CONCEPTUAL CLARIFICATIONS REGARDING THE FINANCIAL CONTROL

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In this paper, the author presents the concept of financial control, distinguishing between financial supervision and tax control based on the analysis of relations finance - Public finance - taxation, namely, financial law - tax law.

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1. GENERAL CONSIDERATIONS ON FINANCIAL CONTROL

1.1. The concept of control

The Control, in general, plays an important role in any economy of any state, it is a basic tool of management for all segments of society. The activity of control is in all the phases of processes taking place in society, from their planning, their progress and impact assessment.

The origin of *control* is found in a Latin word phrase „*contra rolus*”, which expresses the activity of comparing, checking duplicates of the original act, entrusted - in this respect - to another person. In a synthetic speech, the phrase „*contra rolus*” means „checking an act after the original check”³³¹.

More broadly, in its semantic sense, control is „a continuous or periodic review of an activity, a situation to watch them march and take action to improve”³³². Meanwhile, the *control* means „further monitoring moral and material, and possession of an activity, a situation or a process of comparing facts with the required or planned, and the enterprise of collective approaches, so that achievements are in accordance with predetermined goals”³³³.

Under its various aspects, human activity has been subject to control since ancient times. The power of control of man, suspected occurrence of a particular predisposition to evil man to other people, need the good and / or had (owners) to protect their interests affected by the bad guys and not having ”.

By newer days, other purposes have become increasingly important: *efficiency* (to control what goes wrong to go through measures to improve the operational order, tactical or strategic), *legality* (compliance verification established by law and application of sanctions, if any), *opportunity* (the events are appropriate circumstances and situations)³³⁴.

In the specialised literature we meet other acceptable definitions regarding the control, namely:

- The Francophone sense according to „Le Petit Larousse - Dictionnaire encyclopedique, Paris, Larousse, 1975 ”, „control is a check, a careful inspection of the correctness of an act”.

³³¹ M. Ghiță - „The financial control, a component of economy”, Universitaria Publishing House, Craiova, 1995, page 6.

³³² *** „Romanian Language Dictionary”, Academic Publishing House, Bucharest, 1975.

³³³ Ionel Bostan - „The financial control”, Economic Publishing House, Bucharest, 1999, page 6.

³³⁴ Ionel Bostan - „The financial control”, Polirom Publishing House, Iași, 2000, page 11.

- The Anglo – Saxon sense according to „ The New Merriam - Webster Dictionary, Merriam - Webster Inc., Publishers, Springfield, Massachusetts, 1989 ”, „ supervisory control is the action of someone, something, an examination or the power to control an instrument for regulating a mechanism. ”

The need for control is determined by objective reasons and above all, forms of ownership, commodity production and action of specific laws economy.

Control has been and continues to be one of the factors that have influenced and stimulated progress³³⁵, always people with admiration on the achievements of their predecessors and contemporaries, subjecting them to rigorous examination, which led to change and progress.

In addition to the original meaning, *the concept of control* has gained more meaning over time: *the continuous or periodic review* of an activity, a situation they are going to track and take improvement measures, surveillance, moral and material; *to rule* , *to dominate* an activity or situation; *periodic verification of knowledge*; *careful inspection of the correctness* of an act.

Finally, the *control* is an activity that provides data and information derived from the findings *before, during* or *after* the execution of an operation aimed at the prevention of irregularities or deficiencies, in wich their correction and establishing liability, where applicable .

The control is an activity that the findings before, during or after the execution of operations, is providing data and information about them, with the final goal of preventing irregularities and deficiencies - lack of conformity to predetermined rules - and their correction and determination of liability if case³³⁶.

In practice, the control is obvious in all social fields, from politics and obviously in the economic sphere where economic control is revealed primarily by financial control.

1.2. Financial supervision and tax control: definition.

The relationship between finance, public finance and taxation. Relationship between financial law - tax law.

1.2.1. Financial control: definition

Starting from the notion of control and by developments in the economy - which it belongs - *financial control* - its defined „*as the action to determine the status of activities represented in financial and accounting documents, by reporting these representations to the provisions laws that have been defined*”³³⁷.

Analyzing the above definition that audit work *is more* than one action to the need to check the status of knowledge of certain economic phenomenon and pursued to address the effects of deviations from certain statutory provisions.

Specifically, the financial control shall examine the way in which the financial terms of objectives and programs undertaken by different public bodies, in order to prevent them or to discover any irregularities, errors, deficiencies, correct them and to avoid them in the future.

In the sphere of public finance law, financial control covers all the legal rules governing social relations - the legal relations of financial law are set in relation to control the *formation, administration and use* of public financial resources (state and / or administrative units of territories) and that are intended to correct the acts and transactions and other compliance and default rules³³⁸.

³³⁵ Dan – Drosu Șaguna - „ Financial and tax treaty law”, All Beck Publishing House, Bucharest, 2001, page 329.

³³⁶ Doina Petică Roman - „ Public Financial Law”, Tribuna Press House and Publishing House, Sibiu, 2003, page 222.

³³⁷ P.Popeangă, G.Popeangă - „Financial and tax control”, C.E.C.C.A.R. Publishing House, Bucharest, 2004, page 19.

³³⁸ See Doina Petică – Roman, op.cit., page 223.

The economic literature has formulated various definitions of the financial control, a common denominator of them is the fact that relations in the sphere of financial control is a *component* of the relations which arise in connection with the state's financial resources.

Thus, Professor Ioan Gliga defined the financial control as „*a compliance and enforcement activities conform to norms of financial conducted with the purpose of restoring legality, training and use made of public money funds and hence the purpose of establishing liability and application of legal coercion cases of violation of financial law*”³³⁹.

Professor Dan Drosu-Şaguna defined the financial control as „*a component of economic control, which is to know how material and financial resources are managed by public companies, the form for spending public money, ensure financial balance, achieving economic efficiency, development of national economy, the achievement of social progress*”³⁴⁰.

In his work, public finance law "(Printing Press House and Tribune, Sibiu, 2003), Mrs. Professor Doina Petică - Roman makes the distinction between financial control and public financial control, defining *the public financial control* as being „*a component of financial control activity to verify how is formed the public financial funding and how the public patrimony is managed*”³⁴¹, to ensure a good financial management with the purpose of restoring legality in situations of violation of legal rules”³⁴².

The *training, management and efficient* use of public money are *crucial* to achieving the major objectives of the State, both economic and social, but are *determined* to a large extent, by the efficiency of activities developed by *financial control*.

From the definitions above, we conclude that the financial control activity serves a triple system of interest namely:

1. Financial control is the instrument through the effects of prevention and settlement failures that can occur at any time in activities within an economic unit, serves the interests of the state in achieving its long-term fiscal policy.
2. Financial control serves the interests of economic operators who organize it and carry it through *both* the prevention of situations of failure in the management of heritage, and especially the work of remedying violations of legal provisions established.
3. Financial control serves the interests of economic entities marketing partner, which gives precise information on the economic situation of economic unit and are concerned for a possible partnership.

1.2.2. The relationship between finance, public finance and taxation. The financial law - tax law relationship.

Definition of fiscal law

In the analysis of definitions given to the financial control we can see the following observations³⁴³:

- a) Through *financial control* occurs the inspection of the establishment of public revenue. Since the formation of public revenues is on account of *taxes and other revenue* of public budgets, the legal rules governing these issues are covered in theory as the *tax law*, subdivision belonging to *financial law*. Therefore, *tax law* is a component of *financial law*, just as *taxation* is part of the *science of Finance*. Taking *finances* - the financial relationships – as a *whole*, *public finances* are

³³⁹ Ioan Gliga - „Fiancial Law, Humanitas Publishing House, Bucharest, 1998, page 380.

³⁴⁰ Dan Drosu-Şaguna - „Fiancial and tax treathy law”, All Beck Publishing House, Bucharest, 2001, page 329-330.

³⁴¹ Public property means all rights and obligations at a time, of state administrative units - regional public entities or their economic value, acquired or assumed in any way (Doina Patică - Roman, op.cit., Page 226)

³⁴² Doina Petică – Roman, op.cit., page 224.

³⁴³ See Doina Petică – Roman, op.cit. 225-227.

the *part* (and the private finance too) in the public finances, *taxation* is also *part* (the *taxation* is a component of *public finances*, which is a component of finance in its sense). Even so, considering the entire *financial law* as a whole and the relationship between *tax law* and *financial supervision*, by analogy the relationship between financial supervision and tax control is a relationship of the *whole to part*.

Financial Control reflects the *inspection* of the establishment of public revenues through taxes, respectively, verifying the *fulfillment* of tax obligations by taxpayers.

b) Through *financial control* we can check how to use the *public revenue / public funds*, regardless of the quality of public or private entity to receive the funds. In addition to checking the *constitution* of government revenue - work carried out through *fiscal control - financial control* (as a whole), and we can also check how public revenues are used. The ultimate goal of *using public revenues* is the satisfaction of needs and general interests, which is why it is imperative to verify the use of these public revenues because it is natural that the requirements are respected by *legality, regularity, economy, efficiency and effectiveness*.

c) The financial control occurs inspection of the *management of public property* - understood as whole and the rights and obligations of the administrative units - territories to public goods in their field and / or private, at one time, value economic, acquired or assumed in any way. In this case, *financial control aimed* is protecting public property against losses caused by natural wear (erosion), waste, abuse or fraud.

2. Conclusion

We can define the *financial control*, as a component of economic control, meaning the activity of verification provisions and operations, which has the objective of knowledge of the *state*, the way they are *formed, managed and employed* the material and financial means (by public companies - which are state entities and the administrative - territorial) - in other words - how to do and spending public money in order to achieve an efficiency of economic life - social, ensure financial balance, the national economy, achievement of social progress and restore the rule of law .

The formation / construction of public revenues is mainly on account of *taxes and other revenue* of public budgets to regulate such matters are the responsibility of *tax law*, a subdivision of financial law. In the context of *fiscality, fiscal control* - reflects the inspection of the establishment of public revenues through taxes, and verifying the fulfillment of tax obligations by taxpayers.

As the French author, Fr. Querol, assessing the effectiveness of a state „depends first of its propensity to tax product to enter the public pay offices and therefore to ensure that citizens do not avoid their tax obligations. For this, it - has endowed with a certain tool: *fiscal control*”³⁴⁴. The tool ensures the supremacy of state tax sovereignty³⁴⁵.

In addition to fiscal control, *financial control* also comprises checking how public revenues are *used*, and inspection of the management of public property.

As tax law is part of the financial law, so, fiscal control is part of financial control.

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³⁴⁵ Viorel Roș - „Finacial Law”, All Beck Publishing House, Bucharest, 2005, page 377.

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