

CONSIDERATION REGARDING TO THE FISCAL REGULATIONS IN SOME EUROPEAN STATES

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It can be observed, that the member states of the European Union were guided to implement some reforms in the domain of fiscal politics, the aim of which would constitute in fighting and eliminating the “damaging” fiscal competition, of the differences regarding to indirect fiscality, etc.

Without this political fiscal instrument coordinated by the members of the European Union, the free traffic of capitals could be transformed into a determinant factor of the cross-border fraud.

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From the foresights of the institutional Treaty of the European Community (CE Treaty) we outline the fact that at a fiscal level, the national sovereignty is manifested (with some exceptions) through the fact that the national Governments and not the European Union are those who make decisions upon the taxes which must be paid by their citizens. This way, the primary objective of the European Union is to assure that the national fiscal regulations respect the general orientation of the Union and that these regulations show no disloyal advantages for some companies from a country in front of their competitors from an other, the communitarian fiscal politics sustaining the principle of unique market and that of the free traffic of capitals.

It is known the fact that the taxes are contributions created to finance public expenses, but the priorities in the matter of expenses are different in every member state, and the European Union does not intervene, in the condition that these must be maintained in reasonable limits. In the context and under the condition of some prudent actions in the matter of economical politics, the member states have great freedom in deciding how to spend their money and what taxes are applied to finance their expenses.

Though, in the matter of indirect taxation it is assessed the legislative harmonization, because this type of fiscality influences the free traffic of goods, the free practice of services – the indirect taxes are contained by the final prices of goods and services, so that it increases the risk of the distortion of the communitarian transactions; that’s why the legal dispositions are more fixed in the matter of harmonization of the fiscal politics.

For the majority of the legal aspects in the domain of direct fiscality there is no need for a harmonization, so that these are at the appreciation of the member states of the European Union, also respecting the principle of subsidiarity.

Having in attention these facts we try to make a concise presentation of some elements of fiscality from some member states of the European Union..

The *Austrian* tendencies in the fiscal matter have been manifested in the direction of diminution of the taxes between the period 2008/2012. More concrete, the principal aspects applied by the fiscal reform from year 2009 aims the followings:

- reduction of tax rates on salaries and income³⁴⁶ – Austria using the progressive method of taxation, in this case ³⁴⁷;
- increase of the exemption limit and changes concerning the reduced tax rate of other receipts;
- increase of the child tax credit from € 50.90 to € 58.40/month;
- analogue adjustment of the single-parent tax credit;
- introduction of a child tax-free amount of € 220/child/year;
- deductibility of child care costs up to € 2,300/child/year for children up to an age of 10;
- tax exemption for employers' subsidies for child care up to € 500/child/year;
- change from the tax-free amount for profits invested by entrepreneurs subject to accounting to a tax-free amount for profits as from 2010: the tax-free amount will be increased from 10 % to 13 % and the requirement for investing profits will be abolished up to € 30,000;
- abolishment of the preferential taxation for retained profits as from 2010;
- abolishment of the preferential tax treatment of stock options as from 1 April 2009;
- tax deductibility of donations for humanitarian purposes, for development cooperation and emergency aid up to 10 % of the profits or income of the previous year;
- increase of the maximum deductible amount of contributions to churches to € 200 as from 2009.

The economical crisis have affected France too, in the moment when this country had already confronted with the increase of the budget deficit – this way there were also outlined difficulties in fiscal matters. In case of the taxation³⁴⁸ of the incomes of physical persons, the scheme of progressive taxation is presented this way (fractions of taxable incomes of the physical persons; the taxable income is divided according to a fiscal domicile, for example, into one part in case of a single person, into two parts in case of a married couple, etc.):

Table no.1

Fractions of taxable income (one part)	Rate
up to 5852 euro	0%
from 5852 euro to 11673 euro	5,5%
from 11673 euro to 25926 euro	14%
from 25926 euro to 69505 euro	30%
over 69505 euro	40%

In the German fiscal spectrum it is observed the introduction, beginning with January 1st 2009, of the tax restrained through stop by the source, upon the incomes of the capital³⁴⁹. Also, an other important moment was the adoption , at the end of 2008, of the reform plan of the system of

³⁴⁶ The Income Tax Act covers the following seven categories of income: income from agriculture and forestry; income from self-employment; income from trade or business (*categories of business income or income from profit*); income from employment; income from investment of capital; income from rental and leasing; other income (*income from receipts over expenditures or categories of non-business income*).

³⁴⁷ Among the effects of this measure it is outlined the fact that, whereas in 2008 2.54 million people out of 6.535 million taxpayers did not pay any taxes on salaries/income, from 1 January 2009 2.7 million people no longer pay taxes on salaries/income.

³⁴⁸ It must be mentioned that the need for taxation is asserted in art. 13 of the 1789 Declaration of the Rights of Man and of the Citizen: „for the maintenance of the public force, and for administrative expenses, a general tax is indispensable [...]”, adding that „it must be equally distributed among all citizens, in proportion to their ability to pay”. Article 14 of the Declaration states that „all citizens have the right to ascertain, by themselves or through their representatives, the need for a public tax, to consent to it freely, to watch over its use, and to determine its proportion, basis, collection and duration”.

Unlike other mandatory levies, *taxes may be assessed and collected only by virtue of an act of the legislature*, i.e. Parliament.

³⁴⁹ Named „*Abgeltungsteuer*”.

heritage taxes – the modifications aiming especially the evaluation rules of the inherited properties.

The last aspect discussed referring to the actual state of the German legal frame of taxation is regarding to a decision of the Constitutional Court (2008), through which there were declared unconstitutional the dispositions referring to the deduction of costs of transport to the working place. According to those foresights, the tax-payers could not deduct their costs in case when they lived no farther then 20 km from the working place, a contractual amount could be directly deducted for every kilometer of transport which crossed this limit. The constitutional Court had considered that this is an arbitrary limit which breaks the basic regulation of the equal treatment in the front of the law. As a consequence, every tax-payer has the right for deduction by a contractual amount for every kilometer.

In the *Italian* fiscality we must mention the taxation rates of the incomes, as follows:

Table no.2

Taxable income	Rate	IRPEF³⁵⁰ –income tax for individuals
up to 15000 euros	23%	23% of income
more than 15000 and up to 28000 euros	27%	3450 + 27% on the part exceeding 15000 euros
more than 28000 and up to 55000 euros	38%	6960 + 38% on the part exceeding 28000 euros
more than 55000 and up to 75000 euros	41%	17220 + 41% on the part exceeding 55000 euros
more than 75000 euros	43%	25420 + 43% on the part exceeding 75000 euros

Also in 2006 (exactly on October 3rd 2006) the legal frame for inheritance and donations was excepted. The heirs and legatees who benefit from the following property and rights shall pay this tax:

- real estate and rights from real estate. The evaluation of the property is done by multiplying the cadastral revenue by the relevant updated coefficients (see below the calculation of the cadastral value to work out the cadastral and mortgage tax);
- shares in the capital of a company (the value is given by the net equity);
- bonds (excluding government bonds);
- companies (the value is given by the net equity without evaluating immovable goods and good will);
- credits and money;
- movable goods (jewels, furniture).

The taxable base is made up of the *total net value* of the hereditary assets, that is to say of the value of the property and the rights object of the inheritance, net of liabilities and deductible expenses (debts of the deceased, medical expenses and funeral expenses).

The inheritance tax is determined by the office which applies different rates according to the degree of kinship of the heir.

In our presentation we are also dealing with some fiscal aspects from Grand Duchy of Luxembourg, which has tried a long period of time to increase his global competitiveness. These effort were materialized in an extremely high political and social stability, in a coherent legal frame, in a direct and favorable fiscal environment. In 2009 for *tax-payers physical* (Law no. 19

³⁵⁰ That is applied on the following incomes: real estate income; capital gains; income from self-employment; income from employment; corporate income; other incomes.

from December 2008³⁵¹) and for companies, there were introduced new positive measures in the fiscal matter (for example through adoption of Law from 19 December 2008³⁵²).

For the physical person tax-payers³⁵³ the new thing is represented by a better consideration of the inflation by introducing the new fiscal credits, the better payment method of the children allocation, sustaining the donations for some charity organizations and the annulment of the taxes restrained by the payment of debts by some saving institutions.

The directions of the fiscal politics(implying fiscal legislation) elaborated by the Ministry of Public Finances with the cooperation of the three fiscal administrations („Administration des contributions directes du Grand-Duché de Luxembourg”, „Administration de l’Enregistrement et des Domaines” and „Administration des douanes et accise”) will aim even in the future to assure the balance of public finances.

In the fiscal system from Bulgaria, an important moment was represented by the introduction of the unique level of taxation³⁵⁴ (10%), this being the lowest taxation level of the personal incomes in Europe; the system of unique level of taxation have registered positive effects because the simple method of calculations, the equal treatment of tax-payers, the low level of taxation. In these conditions it was considered, that the adopted fiscal politics had a primordial role in the economical development of Bulgaria, especially in 2008.

The fiscal system of Croatia had not registered essential modifications in the last period, the main fiscal incomes of the state having as source the tax on the personal incomes, the company taxation, the Value Added Tax and excise duties. Though, we must mention that from the total amount of these fiscal incomes, the greatest part is registered by VAT.

In the Dutch tax system, the rate for income from employment and home ownership is a progressive rate that is charged over four „brackets”. As a result, the private taxpayer will pay a proportionally higher amount of tax as his income increases. tax rates in 2008.

Table no.3

Taxable income from employment and home ownership	Tax rate³⁵⁵
up to 17 579 euro inclusive	2.45%
17579 euro to 31589 euro inclusive	10.70%
31589 euro to 53860 euro inclusive	42.00%

³⁵¹ „Journal Officiel du Grand-Duché de Luxembourg”, no. 198, from 23. dec. 2008, p. 2622-2629.

³⁵² „Journal Officiel du Grand-Duché de Luxembourg”, no. 207, from 24 dec. 2008.

³⁵³ We are referring to the matter of income taxation. According to this legal dispositions tax-payers are:
-resident taxpayers, i.e. those physical persons who have their domicile or normal place of residence in Luxembourg. Luxembourg residents are taxable on their worldwide income.
-non resident taxpayers, i.e. those physical persons who have no domicile or normal place of residence in Luxembourg. Non residents are taxable on income arising from Luxembourg sources only. Taxable income consists in the total net income less special expenses.; but only the following categories of income are taken into account for the determination of total net income: trade and business income; agriculture and forestry income; income from independent professional services; net income from employment; net income from pensions and annuities; net income from capital and investments; net income from rentals and leases; sundry net income.

³⁵⁴ *Law on taxes on the income of natural persons* (01.01.2007), with the ulterior modifications and completions.

³⁵⁵ Tax rates in 2008.

53860 euro and more	52.00%
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Not at least we try to present concisely the main elements of the Hungarian legal frame in the fiscal domain, represented mainly by: [Act XCII of 2003 on the Rules of Taxation](#); [Act CXVII of 1995 on Personal Income Tax](#); [Act CXXVII of 2007 on Value Added Tax](#); [Act LXXXI of 1996 on Corporate Tax and Dividend Tax](#); [Act XLIII of 2002 on Simplified Entrepreneurial Tax](#); [Act CXX of 2005 on Simplified Contribution to Public Revenues](#); [Act LIX of 2006 on the Introduction of the Special Tax and Bankers' Contribution Intended to Improve the Balance of Public Finances](#); [Act XCIII of 1990 on Duties](#); [Act LXXXVII of 2003 on Consumer Price Subsidies](#); [Act XXXIV of 1991 on Gambling Operations](#).

In the domain of taxation of physical persons the legal regulations outline the following categories of taxable incomes:

- incomes to be consolidated: income from activities other than self-employment, income from activities of self-employment and other incomes to be consolidated;

- incomes taxed separately: (in-kind benefits, capital gains, income from private businesses and income from rental of real estate). In case of the incomes from the first category the taxation is represented in the following way: the rate for the combined tax base that is under 5 million HUF is 17 %, for incomes higher then 5 million HUF a fixed amount of 850.000 HUF + a percent of 32% for the amounts over 5 million HUF³⁵⁶.

In the matter of taxation on income/profit of judicial persons we mention that pursuant to the Corporate Tax Act, the following are deemed resident taxpayers:

- companies established under Hungarian law (thus, firms established under the Act on Business Associations: joint stock company, limited liability company (Kft.), joint company (Kv.), general partnership (Kkt.), limited partnership (Bt.) and other organizations (foundations, associations);

- non-resident taxpayers performing entrepreneurial activities at business premises in Hungary.

No group taxation is permitted under Hungarian law and in general the tax year corresponds to the calendar year.

We can observe that in every state, the fiscal politics are based on the national public budget, the budgetary expenses and incomes, constituted in great part by taxes and fees, will influence the destiny of the national economy (even on communitarian level, the economical politics are implemented through monetary and fiscal politics – form here originating the particular importance of the establishment of the general frame of these regulations).

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- 3.***, Ministerul Finanțelor Publice <http://www.mfinante.ro>, 07.04.2010.

³⁵⁶ Beginning with 01.0.2011 there will be modifications by the quantum of the tax, this way for the incomes under 15 million HUF there will be a percent of 17%, and for the higher incomes then 15 million HUF, the tax will be a fix amount of 2.550.000 HUF + a percent of 32% for the amounts over 15 million HUF.