

# TAX CONTROL - PREVENTION AND CONTROL OF TAX EVASION

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*In this paper the author highlights the ways of preventing and combating tax evasion. For this purpose are highlighted the ways Tax Administration acts in the Romanian business environment to attract additional funds to the state budget.*

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## **1. Fiscal Control and Tax Evasion**

Fiscal control is an important component in achieving the management objectives of the Ministry of Finance, part of public management. The main objective is finding relevant solutions that can lead to mitigation and also prevention and combating tax evasion.

Combating tax evasion can be achieved by fiscal policy measures and specialized agencies authorized to prevent and combat tax evasion. These authorized agencies in preventing and combating tax evasion will be analyzed in terms of place, role and limitations conferred by the fiscal controls made by them, in order to identify practical solutions that lead to making them more efficient. Essentially negative, the effects of tax evasion require firm action to prevent and eradicate this phenomenon.

The main objective to be achieved is finding relevant solutions that can lead to mitigation and also prevention and combating tax evasion, but first we must show the importance of mitigation, prevention and combating tax evasion, importance resulting from the many possibilities offered exactly by the fiscal law to avoid paying taxes for all or part of the taxable goods, but also the broad range of expression of impacts, their scope being very broad, found in almost all areas, economic, political, financial or social, with a large range of proliferation of the phenomenon of tax evasion with multiple effects on both short and long term, both on the state and the honest taxpayer that pays his tax debts to the state or the tax evaders.

Mitigation of tax evasion can be achieved by fiscal policy measures (Mosteanu 2008: 74) and specialized agencies, authorized to prevent and combat tax evasion. These institutions authorized in preventing and combating tax evasion will be analyzed in terms of place, role and limitations conferred by the fiscal controls made by them in order to identify practical solutions that lead to making them more efficient. First, we should focus on the meaning of the term "mitigation" and on its boundaries to combat and prevent and, then, I'll present its practical importance and ways to put them into practice.

*The prevention* of fiscal evasion means heading it off in order to eliminate its adverse effects, by means of precaution taken by the execution factors, in particular, and by the decision ones. The *fight* against tax evasion means taking measures to destroy, cut off, eliminate this real financial, economic, social and political scourge. Doctors say that "it is easier to prevent than to treat a disease". This saying is, we believe, valid for tax evasion, but specialists in finance almost unanimously say that tax evasion will exist as long as there are taxes and duties to be paid by taxpayers and, regardless of the measures taken against this phenomenon there will always be new and newer methods by which individuals and legal entities to evade in part or totally from paying their tax obligations to the budget.

Should we conclude from this statement that no effective measures can be taken against tax evasion? Our answer is *tax evasion can not be eradicated, cut off, combated, but can be prevented* (Moraru 2009: 116) *and mitigated if it has emerged and reached easily seen dimensions*.

In our opinion, prevention is the most effective measure to avoid confrontation with the phenomenon of tax evasion, but if it has occurred, in order not to let it reach destructive dimensions, the measures to mitigate its effects become very necessary and important. Moreover, the *mitigation* of tax evasion is the sum of actions that can be taken by state authorities to reduce the intensity or severity of the impacts of tax evasion; tax evasion prevention and mitigation are components of fiscal policy and components of the fiscal system of a country. As the fiscal policy is pursued by the Government as executive power and by the Parliament as legislative power it is obvious that tax evasion prevention and mitigation are actions pending on the political will, the priorities given to the country's leadership in one or another of its development stages.

## **2. Methods of prevention and control of tax evasion**

We stated above that preventing, combating and mitigating tax evasion are tasks for Parliament as a legislative body and Government as executive body. As legislative initiatives are generally taken by the executive organs, automatically the leading role in the fight against evasion is the Government's. This creates at central and local level many authorized institutions with tasks in the pursuit and punishment of acts of tax evasion. All these institutions carry out in one form or another, at one level or another, more specialized or general, control of the way of finding and assessing taxable materials, how to determine the amount of tax and how are determined the taxes to be paid to the State by the taxpayers.

### ***2.1. Tax control role in mitigating tax evasion***

A component of financial control is fiscal control, which includes all activities aimed at verifying reality, legality and sincerity of declarations, verifying the correctness and accuracy of performance, according to the law, taxpayers' tax obligations and the work of investigating and finding tax evasion. Using the fiscal control the tax administration has the burden to compensate for tax omissions, inadequacies or errors committed by taxpayers. All this has the purpose to prevent tax fraud made by taxpayers. (Preda 2009: 94)

Therefore it has been established that the activity of fiscal control is mainly aimed at preventing violations and establishing responsibility for damage caused, using for this a variety of means, methods and institutions, and financial control is the main instrument that public powers have at hand to ensure public financial resources necessary for the state and to detect, prevent and combat tax evasion.

### ***2.2. Tax control improvement***

Control is "a process of knowledge and training, presenting both an objective side, determined by the specific of the subject and a subjective side, in that at times the subject is simplified". Also, control methodology, viewed as a system implies scientific and regulatory interaction of processes and procedures, principles and means enabling the control action. Financial and fiscal control exercised by the state institutions, experienced throughout history changes that were aimed at improving methods and techniques for preventing and combating tax evasion by eliminating duplication.

Tax inspection involves the following methodological steps: preparation of control; conducting fiscal control; completing the control; capitalizing control findings.

A fiscal control is aimed at checking how to determine the taxable base, the amount of tax payable and determining the delay increases, penalties, or propose penalties for violations of tax

laws in any form. Authorized institutions in preventing and combating tax evasion use, as the main tool for achieving this goal, financial and fiscal control. Reduction of tax evasion depends on the organization and efficiency of financial control and also the degree of collection of budget revenues. Lack of effective control will lead to the proliferation of tax evasion with negative consequences to all taxpayers and the state. Hence the importance of strengthening the role and prompt intervention of state authorities and civil society, organizational and functional structures of authorities specialized on control on all social and economic sides.

For a fiscal control to be effective is necessary for the following requirements to be met (Drăgoescu 2006: 34):

- *defining an organizational framework* outlining the responsibilities of those who are granted powers of tax control, and provide guarantees to achieve these tasks outside of any interference from outside the tax system in carrying out the control activity, but also outside of any abuses from control authorities;
- *a legislative framework* as simple, complete and flexible as possible;
- *a qualified and motivated personnel* to accomplish as good as possible the control activity;
- *personnel remuneration* according to the social importance of their work and not directly proportional to the imposed fines, but also they should be punished for disciplinary aberrances;
- *creating an informational system* that makes public at any time the people who have led to bankruptcy their own businesses and forbidding them, for instance, their registration as shareholders, partners or managers in new companies;
- *technical equipment* to support the efficiency and effectiveness of tax administration in general and fiscal control in particular.

Making efficient controls also means that the control is made based on clearly defined rules and criteria, has a specific purpose, avoiding a control that is based on preconceived ideas, opinions to be formulated only after verification of all data is completed and settling all possible remedies to be taken. Tax inspectors to carry out financial-fiscal control must adopt a civilized attitude, be competent in professional terms, possess a moral sense, must be fair, firm, objective and exigent. To do this they must be prepared through briefings, training whenever updates show up in the control area or in the tax area, especially from a legal perspective because the emergence of new laws may cause many taxpayers to do mistakes, either because of their ignorance or because their intention to use the old law. Also, by reviewing cases of control they can get useful information on the causes met in practice which could lead to improving future controls. Training of tax inspectors can be achieved through advanced courses dealing with the control techniques, procedures to be followed, ethical behavior of inspectors, preparation of control documents, etc.

Regarding the selection of personnel for carrying out financial - fiscal control it should be chosen according to qualifications, experience in economic, financial and accounting fields, professional and moral behavior; also the personnel must not be committed politically or carry out public or professional activities which are in contradiction with the profession of financial inspector or the interests of the institution where he/she works. Consideration should be given to training and recruitment of highly qualified specialists with relevant expertise and moral integrity, qualities necessary for the performance of financial control work.

To increase the efficiency of financial - fiscal control the following measures must be taken:

- Improving fiscal control activities by establishing an effective strategic plan to include all branches of activity of companies. By carrying out spot thematic controls on the carrying out of economic activities according to law can be prevented and detected cases of tax evasion. All these controls must be conducted in a professional manner, in compliance with legislation, must be fair and competent and have as purpose, besides collecting revenue for the state budget in the actual amount and according to the date fixed by law, taxpayers' education and awareness towards the degree of voluntary compliance on state tax obligations;

- Improving training of tax inspectors, their attitude, behavior in their relation with taxpayers, and also the way personnel is recruited. All this can be achieved by implementing training programs and existing staff should be reviewed and should be kept only those who meet the professional requirements and then can be specialized according to the degree of preparedness and experience, on certain taxes and fees;

- Improving existing computer system, namely that “tax vector” that allows generalization of all taxpayers’ tax records by updating these records. This computer system should be improved so as to allow data and information exchange between authorized control authorities and between these authorities and the state. All this information can be used to improve control technique and detection of evader taxpayers.

It is also necessary to create a computer system that would allow access to all inspectors to computerized financial - fiscal legislation and also for control activity itself by updating the database on checked taxpayers, preparation of the control activities; development of a planning system of staff requirements in fiscal control and its recruitment; matching the number of staff assigned to the fiscal control with the fiscal control tasks by taking into account the number of taxpayers and their dispersal throughout the area assigned.

All these measures aim to create an efficient framework for achieving financial - fiscal control so that authorized control authorities to work together, to complete each other in the most optimal way to achieve their goals, namely increasing collection degree of budget revenue and preventing and combating tax evasion.

### ***2.3. Tax system improvement***

Checking the specialists’ works we find that the most often cited reason for tax evasion is the legislative framework. The legislative framework is an essential component of any tax system. Tax legislation can be defined as “all legal rules governing the procedure for raising and allocation of the state and public institutions funds to meet social and economic needs and functions of the society”. To be effective, any state’ tax system should be characterized by stability. Thus can be obtained the revenues needed to finance the public budget. The objective of the tax system should be increase of its efficiency and reduction of distortions in economic decisions. To achieve these objectives is important to reduce tax evasion. By reducing tax evasion, will be reduced the gap between taxes to be received and the taxes actually received.

In addition to stability and efficiency, any tax system should be designed to be fair, to be characterized by simplicity, transparency, consistency, to be compatible internationally, to ensure maximum revenue with the lowest costs and to meet economic policy needs on medium and long term. The equity and efficiency criteria are the most important in developing or reforming a tax or the entire tax system.

In the fight against tax evasion must be developed a tax system not too complex and wide. Unfortunately, the tax system in our country is characterized by complexity, instability, and interpretability. Thus, it seems necessary to improve the existing tax system. Improving the tax system should consider improving fiscal and budgetary policy and also reducing the tax pressure. A proposal regarding possibilities to mitigate tax evasion is to develop a computerized system that has as essential component of tax activity the tax information.

A system is “a set of interrelated elements (components) presenting a dynamic interaction based on predetermined rules, in order to achieve a specific goal”, and information system means “an interconnected whole in a systemic view of data, information, information flows, information procedures and processing, transmission and storage of information facilities acting inter-correlated in order to achieve the fundamental objectives of a company”.

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#### **2.4. Legal system improvement**

Because one of the major causes of determining and facilitating tax evasion phenomenon is the existence of an inaccurate and incomplete tax law (Pătroi 2007: 101), the combating and mitigation process against tax evasion should be based on changing tax laws so as to eliminate all possibilities of circumventing the law.

A contributing factor of the tax evasion phenomenon is the complexity and multiplicity of tax laws that make them difficult to be known, understood and followed. In order to combat or prevent acts of tax evasion are needed some measures to improve legislation such as building a stable legislative framework, easy to apply, consistent, with firm and concise sanctions against acts committed by taxpayers in order to reduce, if not eliminate the practice of tax evasion. A legislative measure to follow would be to remove all tax incentives from the current tax code; this because the existence of such tax incentives generates inequitable taxes that will determine many taxpayers to resort to any means, even illegal, to fall into those “preferential” categories in order not to pay taxes.

Tax incentives create a bleak environment for investors. Who needs to decide in a state’s economic activity is the market forces and not the tax facilities or exemptions. Normative acts that control the creation and establishment of taxes and fees payable to the state should be drafted so as to not require the development of methodological rules, instructions and details in their application because having a certain interpretable provision it will be exploited for tax evasion purposes.

### **3. Conclusions**

Failure to comply with obligations under the law on combating tax evasion is a contravention according to the degree of social danger that it shows, to their gravity.

The penalties are intended to recover the amounts withheld from payments due to the state budget, interest, penalties and other payment differences set by the control authorities. Tax penalties are “the means by which law violations are punished”.

Acts of tax evasion are more difficult to prove compared with other antisocial acts and this is why the penalties to combat tax evasion must be regulated so that taxpayers have the burden of proving the correctness of the calculated tax and that the tax sanction is unwarranted.

In order to achieve efficiency in preventing and combating tax evasion the penalty of deprivation of liberty should not be given up, even if the person caught in the act, by law, pays tax liabilities discovered as stolen, and in addition, bans to management of companies or associations of the tax evaders should be introduced.

As long as tax evaders escape responsibility, not being sanctioned for their actions, by imprisonment, a lot more taxpayers will be tempted to resort to tax evasion mechanisms to obtain fraudulently increasing income without being subject to taxation. Even if they are caught, they pay their due tax liabilities, are not punished according to the law and can continue to conduct economic activity, the gains obtained by fraud enabling a strong position on the competitive market.

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