

COMPARATIVE ANALYSIS OF TAX EVASION BETWEEN MOLDOVA AND ROMANIA

OANA-CARMEN RĂVAȘ *

ABSTRACT: *Tax evasion is actually failure by the taxpayer, tax liabilities. And the negative effects of this are felt directly on the level of tax revenue receipts, causing major distortions in the functioning of the market mechanism. It is believed that the first cause of fraud is itself impossible, fairer tax system in which develops based on the principle of declaring taxpayer benefiting from a presumption of honesty and that is a temptation to hide.*

KEY WORDS: *tax evasion, tax liabilities, principle of declaring taxpayer fiscal policy, excessive taxation*

JEL CLASSIFICATIONS: *K 30, K33*

1. INTRODUCTION

Tax evasion is one of the economic and social phenomena particularly important facing countries of the world, each aimed at creating a fiscal policy that envisages eradicating tax evasion.

A fairly comprehensive definition is given by the Law no.87 / 1994 by the Romanian legislature, although now being repealed clearly illustrate this phenomenon, according to the text of the law, tax evasion is' stealing by any means, in whole or in part from taxes, duties and other amounts owed to the state budget, local budgets, state social security budget and extra-budgetary special funds by individuals or legal entities, Romanian or foreign, called taxpayers ". In Romanian legal literature, tax evasion is regarded as "logical result of flaws and inconsistencies legislation imperfect methods faulty application and a not providing and incompetence of the legislator, whose excessive taxation is as guilty as those whom thereby causing evasion "this definition covers rather" cause "than herself evasion.

Taxes are determined exclusively by the state, so any evading fulfilment of this nature is tax evasion which is always a character of intentionality, because the desire of

* Lecturer, Ph.D., University of Petroșani, Romania, oana_dumitrescu13@yahoo.com

every taxpayer is to keep it as much as possible of revenue by evading paying taxes. Demonstrating the intention of evading the legal, administrative litigation is often invoked, but often escape unpunished detected fraudsters resorting to gaps in the legislature.

Regardless of how we define this phenomenon is certain that tax evasion is actually failure by the taxpayer, tax liabilities. And the negative effects of this are felt directly on the level of tax revenue receipts, causing major distortions in the functioning of the market mechanism. It is believed that the first cause of fraud is itself impossible, fairer tax system in which develops based on the principle that the taxpayer's tax declaration enjoys a presumption of honesty and that is a temptation to hide. In the sense that the taxpayer has the impression that it is subject to permanent dispossession, which is why a hostile attitude towards the tax authorities and tried to avoid using numerous techniques, from the most basic to the most sophisticated. In developed countries, fraud detection, the IRS has the most sophisticated means of information-needed centralization of information on taxpayers, and the law is always refined to suit the purpose. Here I lists four cumulative conditions which denotes the existence of tax fraud, given by Dutch case law, namely:

- Act made by the taxpayer must be unusual or abnormal;
- He must be made solely with the intention of evading the law;
- its economic result to be substantially identical to that produced by a normal act, generator of taxes;
- Should the trend and purpose of the law allowing taxation.

Despite these criteria, shall subsist a margin of indeterminacy in the definition and delimitation fraud field. Following the legal imprecision of the scope of this offense, the size of the measure is also uncertain¹.

In order to understand the phenomenon would also include three main factors favouring him, they are not acting independently but have a combined action:

- psycho-social - they regard both the starting and beliefs intimate taxpayer and social environment in which they operate, the report Taxpayers with tax system is above all a matter of perception about the entire sample he must pay. This perception is clearly characterized by a feeling of constraint, which explains permanent opposition to tax.

- Economic factors - related to the perception of the taxpayer on the possibilities to satisfy the needs of earnings after taxes to the state budget, tax evasion as a share of the individual is not devoid of rationality, many of the difficulties facing people the dualism: utility cost. As private individuals we want to achieve maximum utility with minimum expenditure and as public figures we achieve the same maximum utility, but, if possible, at no cost, in this case, without paying taxes, or taxes as small. Economic factors - related to the perception of the taxpayer on the possibilities to satisfy the needs of earnings after taxes to the state budget, tax evasion as a share of the individual is not devoid of rationality, many of the difficulties facing people the dualism: utility cost. As private individuals we want to achieve maximum utility with

¹ Nicolai Hoanță, "Evaziunea fiscală", Ed. "Tribuna Economică", 1997, p.233

minimum expenditure and as public figures we achieve the same maximum utility, but, if possible, at no cost, in this case, without paying taxes, or taxes as small as possible.

- legal and administrative factors - which refers to the perception taxpayers about tax equity manner of establishing, the state revenue collected data destinations, but also on how the applicable state law.

I understand studying this topic concerning the neighbouring country, which binds us to a whole history, Moldova, that their tax evasion has developed rapidly, seriously affecting the country's economic development, is very difficult to control and quantify. This is due to several factors, which can enumerate: the instability of the political situation in the country including imperfections and particularities of tax law reduced degree of civilization and civic consciousness, low living standards, tax policies demanding promoted by the state and especially corruption which is present in the bodies with responsibilities in combating tax circumvention, which is very difficult to prove and sanctioned.

2. ILLEGAL PHENOMENON OF TAX EVASION IN MOLDOVA AND ROMANIA

The decrease of budgetary revenue from taxes due to tax evasion, is an acute problem for many countries and frequent, with a negative impact on savings on, so this phenomenon cannot be neglected.

Following the documentation of statistical data and information I have decided to draw a parallel to make a comparative analysis of illegal tax evasion between Moldova and Romania. As the two countries in developing and experienced the transition from centralized economy to market on both countries felt the negative effects of circumventing tax form work underground characterized by a society strained because of the continued failure to pay pensions and public sector workers' salaries, increasing state budget deficit and state debt.

In these circumstances it is necessary to have economic reform and changes in its composition to strengthen tax administration efficiency leading to economic and social activities. Itself the promotion of tax reforms in countries in transition to a market economy must constitute for them an important objective.

It is worth mentioning that Romania and Moldova are among the states with the highest level of VAT. Moldova has a standard value added tax of 20% compared to 27% registered global maximum of Hungary. In Romania, VAT is 20%, due to changes in the Tax Code of 2016 after being increased from 19% to 24% in 2010. Consulting companies reveals that globally VAT rate is 15.5% the European Union is 22.24% and -20.05 in Eastern Europe. European countries have among the highest in the world of value added tax and the debt crisis has even led to increase quotas in hopes of balancing budgets. In connection with Moldova this level of VAT as it stirs discontent, not belonging to the European Union already have a similar tax in the UK, Bulgaria, Austria and Slovenia.

- Tax circumvention phenomenon both in Moldova and in Romania is the consequence of circumstances and illegal acts of which can enumerate:

- imperfection of the law in the sense that normative acts regulating conduct through which tax is not enough developed, allowing some taxpayers to avoid paying tax;
- the conduct of certain categories of taxpayers, who use various means to conceal taxable matter;
- lack of ambition or corruption of public officials in the tax bodies;
- heavy tax burden which causes a growing share of economic agents to the shadow sector.

By the studies of the fiscal burden developments in the real sector of economy in Moldova conducted by the National Bureau of Statistics found that, on average, increasing the tax rate by one percentage increased tax evasion by 2.5%, but this does not. It means that the tax burden will immediately increase tax revenues in the budget. So we find that besides fiscal policy is well established need and a civic sense from taxpayers.

There are generally difficult to detect all forms of tax evasion, they are virtually limitless, but they are forms that are found most frequently in fiscal activities common to both countries studied:

- preparation of documents paying fictitious and false statements;
- compiling of false accounting records;
- undeclared taxable matters;
- declaring taxable income below the real;
- Execute the registers double, a real specimen and another fictional;
- falsifying balance sheet as a means to defraud the IRS, which involves conversion between patron and chief accountant, and therefore they are held jointly liable for the deed;
- sales made without invoice and actual sales invoices without obscuring the actual taxable transactions;
- the reduction of taxable results in reduced turnover by registering the unit's expense actually missed expenses phenomena of "illegal work" and pay " in envelope"

It is clear that "in case of avoidance of taxpayer attempts to place a more favourable position to benefit as much advantage of tax regulations in force. In other words, tax dodger usually uses legal procedures, using loopholes left open right from the legislator"

As a reliable conclusion to this chapter can mention that circumvent tax is a very acute problem, the result of which both countries lost annually billion as a result the state is forced to take a series of measures to cover the "gaps" in the budget by taxes, so even if not all are tax dodger, however indirectly affects us every phenomenon. For the economic situation of the state budget balance would lead to macroeconomic balance and ensuring economic development conditions. And to combat tax circumvention is not necessarily to impose some severe penalties, primarily from citizens need to be accompanied by a fiscal education legal system necessarily a viable and effective fiscal control.

3. CURRENT ISSUES OF TAX EVASION IN MOLDOVA

According to the National Bureau of Statistics of Moldova who made public information on the crime situation in 2014, it registered a noticeable increase of 1.3 times more than the previous year economic crimes such as tax evasion and smuggling. And after a study conducted by the Prosecutor's Office related to its prevention circumvent tax to combat firms' ghosts and refund unfounded state budget of value added tax, prosecutors ordered the criminal prosecution in 443 cases for the offense of tax evasion within 2014. the prosecution was conducted in 815 cases in which the management remained 494 criminal cases, including switched in previous years. The damage caused by such a crime was about 22 million lei, and for 23 cases were to sentence to businesses and individuals.

The negative impact on the state economy resulting from the activity of companies' delinquency arising from the acquisition of companies previously have worked according to legal norms, the person without capacity to carry out entrepreneurial activity, their actions being directed by others. According to study results filed by Transparency International Moldova, the biggest losses for the state budget have caused the municipality of Chisinau, assessing total amount of tax evasion, considering undertakings not subject to tax audits showed that the highest amount of evasion LLCs total returns, followed by stock companies and companies with foreign capital. Large enterprises, according to the study are most often subject to controls, the size of tax evasion among these, while it is possible to bribe the tax inspectors in private enterprise and penalty rate for this group of enterprises is lower than in other taxpayers.

Special attention it deserves to tax evasion in Territorial Administrative Unit of Gagauzia, because this region is made possible for maximum support and reduce tax evasion essential contributions to the state budget. Specialists in the field more research on tax evasion support that is needed to equalize the tax burden, applying a more equitable approach them in all regions of the country, otherwise, development of real sector of economy in the regions that contribute significantly to the budget the revenues will be discouraged.

More recently an escape from the payment of taxes was detected in real estate, according to state institution of Cadastre announcing that the average price for m² of housing in Chisinau is about 340 euros, while Bursa estate Lara shows the price for m² as 580 euros, studying data from other estate agents in Chisinau shows that the average price of a m² oscillates at around 600 euros.

This large price difference can be explained by the fact that in most transactions used a simple scheme of tax evasion by not paying tax on income from real estate sales. It operates the Track follows when a natural or legal person wishes to sell a property most often pay 18% amount resulting from the difference between the market value and the cadastral divided by 2, or 7% of the difference between the cadastral value and the market. If the property is sold to the cadastral value of any tax not paid the state, and most property sellers declare the contract of sale only cadastral

value of the house and the other part is recorded by a receipt, other contract or verbal agreement.

Notaries know these "fiscal gimmicks" but they are not interested to discover these illegalities, because to lose customers and money in the services offered in this way. The scale of this phenomenon has become considerable, unfortunately from the state authorities there was no interference with the aim of annihilating phenomenon.

Just in the past year it was discovered irregularities in the tourism sector identified by the State Tax Service (STS), according to which the tourism businesses not calculate per package sometimes operators and travel agencies, do not reflect the actual amount transactions in the accounts, issue invoices, and much of the travel agencies not objectively reflect wage income.

In view of this period, the tax inspectors have annihilated several structures practicing economic activities illegal, evading the payment of taxes corresponding to the budget, the State Tax Service of Moldova has made an appeal to business representatives not to admit the illegal economic activities undertaken voluntarily and conform to the requirements of legislation existing.

As a result of fiscal controls most common cases of tax evasion were:

- retail sale of products without a license;
- Making money income in cash without issuing cash receipt issued by household and control;
- carrying out an entrepreneurial activity without authorization;
- failure to produce accounting primary documents;
- existence and surplus cash shortfalls in cash box of machine and control house or other place, especially for receiving and temporary storage of funds;
- preventing tax audit by the tax authority to submit documents required;
- Lack numeral in our cash balance and control the formation of excess cash is unjustified documentary.

But there is another distinct form of evasion undeclared or more often expressed through "black" labour according to the Labour Code of the Republic of Moldova, is defined as any work performed by an individual for and under the authority of an employer without be respected provisions of this Code concerning the termination of the individual employment contract. This manifestation it highlighted script taxed, protected or assisted social worker at the discretion of the benefit which provides work. Undeclared work is present and manifests itself in many forms, including: the work done without concluding individual employment contract, the compulsory medical and social, keeping records for the actual work performed by the employee, work, and highlighted partly achieved by double bookkeeping and payment of salaries "in envelopes" failure to record real time actual work performed by each employee and as a result, incorrect determination of wages.

Work on the "black" and pay "envelope" as a form of tax evasion final aims to decrease expenses for social security contributions, health and income tax, only these two phenomena involve direct costs estimated annually at about 6.5 % of GDP.

These two phenomena are caused by negative perceptions on the quality of roads, social services and public bodies in general. Reduced confidence in the sustainability of the pension system increases the likelihood of acceptance of informal

wages because employees do not perceive the current system as being fair and no one able to guarantee a level proportional to the size of pension contributions. Another major factor is also related to the population level of concern for future pension size: the population is thinking less about the size of future pension, the higher the probability of accepting compensation informal. Another major factor feeding the motivation to accept wages "in envelopes" take the negative perception of the population on how they are used taxes paid, and the level of transparency of the use of public money, as it lacks confidence in the tax authorities, Government and Parliament. According to estimates of the Ministry of Labour, Social Protection and Family, 57% of the employed population does not declare the real salary.

The existing institutional framework create a series of incentives for employers to require job "black" or using unofficial remuneration practices. In general, the main factors limiting constraints related to the operation of companies and their ability to generate formal jobs. They are rigid employment protection legislation, the burden related to the regulatory framework of entrepreneurial activity, most companies operating inefficiencies and, respectively, high tax burden related to salaries.

All these violations cannot be tolerated, and for taxpayers who fall in the underground economy is necessary to apply the entire arsenal of legal measures to thwart circumvention phenomenon of tax and prosecute those who violate the legislation in force.

Tax evasion leaves a strong negative impact on the country's economy, the state can not to assume their expense because it has no place to collect fair and effective taxes as a source of income to the state budget, thus affecting financing the state programs, institutions and State structures. So tax evasion puts under threat the social stability and progress of the country's development.

Field evasion and customs is one of the main channels that feed the underground economy, as manifested by decrease in value and quantity declared customs value, smuggling of goods, manoeuvres illicit property management companies, such as registration deliberate and improper operations in accounting, carrying out fictitious operations etc.

For this reason, feels uncertainty strong, a situation nervous, especially when civil society amplifies talks on tax evasion linked to corrupt public officials, moreover people with political and economic decision around this topic without providing explanations or evidence, know only the existence of the phenomenon but not its real proportions. The proportions are hidden but unfortunately very felt by the population, hence the need to estimate the impacts in terms of monetary, financial, social and political.

Another drawback strong concealment and evasion from payment of taxes is increasing the burden on taxpayers, who pay honestly, legally and taxes in time, for increasing the of the fiscal burden further stimulates concealment activities and an escape from the payment of taxes, thus enhancing the differentiation of income and property. An excessive tax burden discourages economic agents beginners because of the economic situation, choose to implement ideas abroad.

From the results presented above outlines a conclusion, namely, based on the idea that taxpayers are more likely to avoid tax obligations if it finds that other

taxpayers-evaders remain unpunished, thus detecting and sanctioning cases of tax evasion and publication of such data can have a beneficial effect on tax morality. Thus, risks are seemingly small aspect of income should be dealt with perseverance, if they contribute to the perception and innuendo and evasion is widespread. It is necessary to extend communication and understanding between tax authorities and society. And taxpayers have decided not to comply with tax laws apply means- following fiscal control, fiscal positions, forced collection of debts to the budget

REFERENCES:

- [1]. **Costandachi, Gh.** (2012) *Moldova pradă a economiei subterane și evaziunilor fiscale*, Editura. IDIS „Viitorul” Chișinău
- [2]. **Florescu, D., Mrejeru, Th., Bucur, D., Pantea, M., Manea, V., Martinescu, A.** (2013) *Evaziunea fiscală*, Editura Universul Juridic
- [3]. **Hoanță, N.** (2010) *Evaziunea fiscală*, Editura C.H.BECK, București
- [4]. **Hurloiu, I.I.** (2011) *Managementul activităților de prevenire și combatere a fraudei fiscale la nivel internațional*, Centrul Editorial al UASM, Chișinău
- [5]. **Lupușor, A., Fală, A., Morcofîlo, I.** (2014) *Discrepanța fiscală – o realitate invizibilă*, Centrul Analitic Independent EXPERT-GRUP, Chișinău
- [6]. **Obreja, E., Carașciuc, L.** (2002) *Corupția În Moldova:fapte, analiză, propuneri*, Chișinău
- [7]. **Șaguna, D.D.** (2014) *Drept financiar și fiscal*, Editura CH Beck, București
- [8]. **Tudor, Ș.** (2014) *Evaziunea fiscală. Practică judiciară recentă*, Editura Hamangiu, București
- [9]. www.statistica.md/libview.php?l=ro&idc=168&id=4663, accesed at 09.04.2015
- [10]. www.trm.md/ro/social/peste-400-de-cazuri-de-evaziune-fiscala-descoperite-in-2014
- [11]. www.lara.md/ro/?lang=ro, accesed at 14.04.2015
- [12]. www.old.fisc.md/ro/about/history/, accesed at 27.03.2015
- [13]. www.agora.md/stiri/4200/culmea-evaziunii-fiscale-in-tranzactiile-imobiliare-poate-fi-dedusa-din-date-statistice, accesed at 24.04.2015
- [14]. www.curentul.md/business/fisc-ul-atentioneaza-reprezentantii-mediului-de-afaceri.html, accesed at 06.05.2015
- [15]. www.transparency.md/ro/, accesed at 22.05.2015
- [16]. www.agora.md/stiri/2723/Seful-fiscului-se-atesta-cazuri-de-evaziune-fiscala-in-sfera-turistica, accesed at 06.05.2015
- [17]. www.gazetadesud.md/munca-la-negru-definitie-cauze-consecinte-si-forme-de-manifestare, accesed at 03.06.2015
- [18]. www.capital.market.md/ro/content/republica-moldova-printre-statele-cu-cel-mai-ridicat-nivel-al-tva, accesed at 11.06.2015
- [19]. www.cadastre.md/, accesed at 14.04.2015