

TAX EVASION BETWEEN TAX OPTIMIZATION AT THE BORDER OF LEGALITY, TAX BURDEN AND VOLUNTARY COMPLIANCE

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Abstract: Tax evasion operates beyond the boundaries of the jurisdictions, it develops across borders, and the extent of tax fraud as a phenomenon is differentiated according to the aspects and the rigours of legislation, as well as according to the economic environment of each country in part. Regardless of the level of development of the country in which it manifests, the effects of the fiscal fraud are destructive, affecting both the state budget, as well as the financial resources of the offenders' commercial partners. The fiscal fraud has negative effects over the economic market, and one of the consequences is the social inequality from the perspective of the abuse and the predisposition of certain taxable subjects to fraud. Certainly, the phenomenon remains unraveled, the financial schemes being extremely complex, and the fraud mechanisms are some of the most laborious ones and in a permanent improvement, while the evaders keep finding new means by way of which they illegally attract financial resources. The fight against tax evaders is a difficult one, mainly because of the sometimes "deliberate" legislative "loopholes", but also because of their ingenuity, which is often "one step" ahead of those who fight against tax evasion.

Keywords: tax evasion; tax fraud; tax control; legislative framework.

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1. The concept of tax evasion

In order to understand this phenomenon in depth, we first need to understand the notion of tax evasion in all its meanings. The term has been defined over time by economists, legal counselors and researchers in the field. The Romanian doctrine shows us that, over time, the notions used by those who define tax evasion have different meanings from author to author, creating confusion and leaving room for generous interpretations. Thus, the subject of "terminology" on the notion of tax evasion has not been exhausted, still generating various interpretations and giving rise to controversy and discussions on the concept which is limited by some definitions, while being extended by other definitions. The confusions that still surrounds the concept of tax evasion are themselves a cause that generate and sustain them [1].

Defining the concept of tax evasion is, in the first place, comprised by the Romanian legislation. Thus, the concept of tax evasion was defined in the year 1994 in Law no. 87, article 1, as being "the evasion, by any means, of the payment of taxes, contributions and other amounts due to the state budget, local budgets, the state social security budget and the budgets of special funds by individuals and Romanian or foreign legal persons, referred to in the law as taxpayers"[2]. Law no.87/1994 includes in the category of tax evasion both the evasion of the payment of compulsory taxes and duties, and the evasion of the taxpayer from taxation, being the first normative document that outlined the idea of evasion and established, albeit incompletely, certain duties and obligations of taxpayers. At the time, the regulation was full of imperfections, but the clear intention was to curb a growing phenomenon that was taking its toll on the economy and the welfare of citizens. This is the first time that the evasion of the payment of the obligations has been defined within the legal regulations as a criminal offense.

Law no. 241/2005, the current regulation for preventing and combating tax evasion, does not contain an express definition of tax evasion, giving it the legal nature of a crime. Thus, the text of the law delimits extremely restrictively the deeds that constitute tax evasion offences by criminalizing the evasion of taxation. With such an approach, the law becomes permissive, leaving room for interpretation and abuse. The burden of identifying boundaries and meanings closer to reality is deliberately left to practitioners, to the detriment of business and, indeed, society as a whole.

2. The offence of tax fraud under the law

In the inter-war period, tax evasion was identified as having its origin in tax fraud, tax evasion being seen as an extensive form of it, as part of it, being qualified, according to the author Hoanță as "an offense against the law and distinguished from tax evasion which could also be defined as a skillful use of the possibilities offered

by the law"[3]. Subsequently, the two notions started to be assimilated. Thus, the crime committed in the fiscal field is called fiscal fraud or it is, more frequently encountered as the fraudulent tax evasion. Under its different forms, the fiscal fraud or the fraudulent tax evasion implies that the taxable subject finds different manners to shirk from the payment of the taxes by hiding the taxable source or by diminishing the value of the taxable sum, to evade the legal framework by various ingenious combinations which the law did not foresee, with the sole purpose to minimize the fiscal burden or, as the European Commission defines it, fiscal fraud is an ensemble of "illegal mechanisms by way of which the obligation to pay the tax is hidden or ignored"[4]. From this behavior lies the flagrant breach of the law, therefore the fiscal fraud is committed in general, with intention. Within its reports, the European Commission defines the fiscal fraud as being one of the forms of tax evasion, committed intentionally and which makes the object of certain criminal sanctions [5].

According to the specialized literature, the illegal tax evasion presents itself in various shapes depending on the evaders' modus operandi, this being divided into four categories: traditional, legal, accounting evasion and evasion by evaluation [6]. Tax evasion has been classified in the literature in various ways over the years according to various criteria. Thus, one of the most comprehensive belongs to the author Gliga (2007) [7]:

- the perpetrator as the first criterion. This is the basis for limiting tax evasion performed by individuals from tax evasion executed by legal persons;
- the material criterion: according to which a distinction is made between types of fraud carried out by concealing the taxable object or which is carried out by artificially increasing the actual amount of deductible expenses, but also the types of fraud committed by an action which is distinct from those committed by an inaction;
- from a tax perspective: evasion committed by reducing the income earned and thus the tax base, and evasion committed when the tax liability is paid, by classifying goods in another category, subject to lower taxation, for example in the case of excise duties on fuel;
- the quantitative criterion of the scale of evasion, which distinguishes between artisanal and industrial tax evasion, based on the mechanism of relatively small but well-organized structures which, using well-thought-out techniques, appropriate large sums of money due to the State;
- the legal nature of the applicable sanction with reference to administrative tax evasion, which entails the calculation of interest and late payment surcharges on the amounts due and in certain cases, civil sanctions, and the criminal tax evasion, which

entails a referral to the criminal prosecution authorities, the acts committed being criminal offences.

The effects of tax evasion are extremely powerful and varied. Just as the area of manifestation of this phenomenon is growing, its negative effects are increasingly diverse, spreading at a rapid pace in the economies of all countries, but also upon each individual.

3. Tax optimization on the border of legality

The concept of legal fraud is not only used in our country but also in the French-speaking countries of France, Belgium and Switzerland. This involves undervaluing the taxable mass using tax-valued methods.

Tax optimization can be seen from two perspectives: a general one and an individual one. Seen from a general perspective, it is the optimization at national, European and international level of the entire tax system, its components and the tax mechanism, techniques and procedures that make it up. The aim of such optimization, on such a large scale, is to avoid tax fraud and double taxation at international level, due to tax harmonization and the adoption of a single, coordinated system at the level of the European Union [8].

In the speciality theory, three types of fiscal optimizations are distinguished:

□ The tax optimization through inaction is manifested by the taxpayer's abstention from concluding or performing a judicial document that would give rise to a fiscal obligation. The purpose of optimization through inaction results from the analysis made by Stéphane Detraz - "the one that is interested shall abstain from performing an activity that generates tax, with the purpose of not exceeding one or two thresholds of taxation, beyond which tax shall be owed or it will have an increased level" [9]. In many situations the taxpayer chooses or not to carry out an activity if it is susceptible to be subjected to taxation, a modality removed from the sphere of optimization and considered only an instrument to situate the payer on the other side of the norms concerning the fiscal law.

□ Tax optimization through manipulation is where the taxpayer ignores certain legal provisions in the tax system. It often chooses to consider only tax provisions without corroborating them with other legal provisions. It is not by chance that in French literature this form of optimization is called „la véritable évasion fiscale” [10].

Fiscal optimization through manipulation is the procedure by which the entities, be they natural or legal persons, capitalize upon, for their own benefit, the lacks and the gaps of the fiscal system. Following the application of this technique, the taxpayer eliminates all or part of the tax. The taxpayer makes use of the rules in force by exploiting exactly what the legislator did not foresee, a basic feature of this type of optimization [11].

□ The fiscal optimization through option is, in fact, a fiscal ability through which the taxpayer chooses to adopt which is the most favorable fiscal solution proposed by the law. In manifesting his options, the taxpayer can choose either specific national procedures, or specific community or international procedures [12].

The taxpayer opts for certain tax solutions according to tax law regulations at different levels, based on different criteria such as:

- the field of activity in which it operates;
- the form of legal registration of the entity;
- the size of the business and therefore the turnover in a financial year;
- the expected duration of the economic activity.

Thus, taking into account the above factors, the taxpayer chooses the most convenient tax regime, i.e. he chooses between carrying out his economic activity being registered as a natural person (paying income tax) and, between operating as a legal person and falling within the scope of micro-enterprise income tax payers or, as the case may be, profit tax payers according to the rules in force provided for in Law 227/2015.

According to the same tax regulations, namely Law 227/2015, as far as indirect taxation is concerned, a taxpayer may opt, from the beginning of his activity, to become a VAT payer according to Article 310 paragraph (3) of Law 227/2015, having as an alternative the application of the special exemption regime, if he estimates his annual sales (turnover) to be lower than the exemption ceiling, in force, of 88,500 euros and does not opt to apply the normal taxation regime, according to the provisions of Article 310 paragraph. (4).

At the same time, the taxpayer has at his disposal, according to the fiscal legislation, the possibility of opting for a specific fiscal regime, a specific accounting regime, also opting in what regards the fiscal registration or the declarative regime, i.e. the monthly or quarterly declaration of the contributions for the salaries or the monthly or quarterly declaration of the value-added tax.

4. Tax planning tools versus tax optimization

Transfer pricing is one of the tax planning tools most commonly used by taxpayers. They are a frequently used tool between related parties (the concept of affiliation is defined in the current Tax Code [13]), a means of positioning the interests of multinationals, a way of carrying out transactions at fair prices but also an end in itself to the benefit of tax administrations, to collect taxes in their jurisdiction at the highest possible level.

The management of economic agents often also fulfills the role of being the decision-maker in the implementation of tax strategies or tax planning. Thus, it sometimes chooses to resort to various tax planning methods, various techniques to artificially

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minimize taxes and duties, shifting the tax burden generating taxes and duties by means of economic operations carried out with companies controlled/owned by it through preferential pricing [14].

The use of transfer pricing as a means of tax optimization implies that transactions involving tangible or intangible goods, or the provision of services between related persons, are carried out at values below or above their market value, all with the aim of avoiding tax obligations or attracting tax advantages. Economic transactions carried out between related persons must comply with the principle of market value, with the aim of protecting the tax base obtained in their area of competence.

With increased scrutiny from tax authorities around the world, transfer pricing has become an increasingly important tax issue for multinational corporations [15].

5. Causes versus effects of tax evasion

Countering tax evasion depends on the extent to which we understand the causes of tax evasion, which has generated much debate in the literature over the years. The causes that lead taxpayers to evasive behaviour, according to author Dinga, are multiple, and among the most important are:

- Increased fiscal pressure.
- Weak, often unfriendly and uncooperative tax administration.
- Fiscal facilities.
- Contagion [16].

From an economic perspective, the granting of tax breaks to taxpayers by governments in the form of installments, deferrals, various exemptions from paying taxes and related interest and penalties, even tax amnesty, complemented by an excessive tax burden is one of the causes of tax evasion. In Romania, a legal framework has been created, from a tax point of view, much more favourable to foreign investors. These investors, with significant capital and more experience, competed with Romanian investors from unequal positions, leading the latter to resort to practices that were not exactly legal, in order to stay on the market, trying to avoid paying taxes to the state. An enlightening example in this respect is the situation of companies that benefited from the corporate income tax exemption under the provisions of Article 7 of Law 127/1991 on corporate income tax [17]. After leaving the period that offered them that tax facility, those who controlled the company went on to set up other companies to benefit from the same tax facility.

From the above, the following conclusion can be drawn: by benefiting from certain tax incentives, sometimes even substantial ones, expectations are created and taxpayers continue to hope that they will benefit from the same incentives in the future. This fact generates among taxpayers an evasive behavior, a distorted tax behavior that will have immediate and long-term repercussions on the state budget through the damage it brings. However, tax relief is often necessary, an important

element leading to the need for tax relief being an increase in the tax burden to stop the Laffer curve effect (a graphical representation showing the effect of an increase in the tax burden on revenue collection which is inversely proportional). The consequence of this is an increase in moral hazard or taxpayers' expectations.

From the same perspective, we all know that Romania is far from being one of the developed countries, it is an emerging country with an immature economy, so in an emerging country, it is obvious that the phenomenon of tax evasion, as well, reaches high levels.

A different cause that favors the existence and proliferation of tax evasion is the one of a legal nature. In a legislative framework that is incomplete, omitting certain taxes, that is imperfect and ambiguous, the creativity and skill of the taxpayer can be allowed to flourish. Thus, the taxpayer takes advantage of legislative loopholes, ambiguity of tax rules and avoids paying taxes.

The same category of legislative causes includes the instability of legislation. There have been no less than 83 amendments to the Tax Code (Law 571/2003) [18]. And the current Tax Code (Law 227/2015) has already undergone many changes. All of this only serves to maintain fiscal instability and to give potential tax evaders the opportunity to take advantage of these changes.

Among the legislative omissions in Romania that have led to an increase in tax evasion, from which taxpayers took advantage, we mention:

- between 1993 and 1995, the omission of natural persons authorized to produce alcoholic beverages from the category of taxable persons;
- during the same period, fuel and some of its derivatives were not entered as being part of the scope of excise duty or were taxed by applying a decreased excise duty, so that the change in tax regime by the State was an opportunity misused by some taxpayers;
- the non-inclusion, until 2004, of real estate transactions and capital income in the scope of taxation, facilitating an uncompetitive environment for society;
- the granting of benefits in kind by employers to employees;
- granting tax relief to taxpayers such as partial exemptions, deductions (non-taxation of buildings for taxpayers belonging to certain social categories has led to the registration of other people's buildings in their names to benefit from the tax relief granted), non-taxation of IT wage income, etc.

We conclude that the instability of the tax system in Romania, the frequent changes to tax laws, the misinterpretation and misuse of legal provisions, as well as the multitude of taxes and duties and their frequency led to an increasing scale of tax evasion. Taxpayers, intent on circumventing the law, are particularly inventive, and tax evasion cases are extremely varied. Most of the time, the legislator cannot foresee the particularities of each individual case, but is nevertheless obliged to eliminate

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arbitrariness from the legislation by adopting concise, clear and unambiguous provisions. It is important that, before the draft legislation is given form, the control bodies, which in their daily work are confronted with a wide range of cases and legislative obstacles, are consulted first. The complexity of an action in court that through the procedures of criminal investigation, preliminary chamber and trial phase could take years should not to be neglected either.

Through the public authorities, through the legislative framework in place, the state can even "incite" non-compliance and tax evasion by having:

- a "positive" purpose, supported by the desire to stimulate capital accumulation;
- a "negative" purpose, aimed at supporting certain interest groups through corrupt officials or magistrates, all of which has a number of negative consequences [19].

Another category of determinants is the psychological factors. Human nature itself is constructed in such a way that man defends his wealth, thus keeping as much as possible for himself, and consequently sharing as little as possible with the state. And if this ideology, with which the taxpayer was born, is joined by the power of the example of those around him, the more the taxpayer will be convinced to do so. Specifically, if those they deal with have a negative perception of the state and of paying taxes to it, then so-called "contagion" occurs. Also, when the taxpayer commits a tax evasion offense, and is aware that he is viewed with some leniency by the public, he will not fear the consequences of his actions.

Last but not least, politics has a major influence on evasion. Every election campaign promises tax reforms. Measures to reduce or increase taxes and duties are adopted through government programmes. At the same time, a fair and equitable redistribution of state revenues leads implicitly to a fairer position of economic agents towards their payment. In order to reduce taxpayer/payer dissatisfaction, the authorities need to take steps to highlight the interdependence between fiscal and budgetary policy for greater transparency on the spending of public money [20].

One of the most important factors determining taxpayer avoidance behavior is interdependent with tax education and tax morale education of taxpayers.

6. Tax burden

The tax burden is generally determined by the tax rate in an economy, being the result of the ratio between the tax collections associated with a certain period and the value of GDP for the same period [21].

Economic operators have a different perception of compulsory levies (taxes and social contributions). On the one hand, the obligation to pay tax is seen by them as causing an irretrievable loss (due to the "budgetary principle of non-assignment of revenue"), while the payment of social contributions is seen as a guarantee, an insurance for the future (pension, health). The limits that taxpayers are willing to bear in terms of compulsory levies are closely linked to the fiscal pressure.

Taxpayers react aggressively to tax increases, often through tax evasion and fraud, or by reducing productive activity, by delaying payments to the budget, by directing their activity towards the grey area of the economy. All this translates into a negative impact on budget revenues.

The most powerful effect of high fiscal pressure is the so-called "tax resistance" phenomenon, which brings with it at least one of the following manifestations:

- avoiding carrying out or declaring certain operations in order to avoid the taxes they may generate, or as it is also called -tax abstention-, a passive attitude whereby the taxpayer seeks to reduce his activity on sight (still acting in the grey economy) in order to remain below the tax threshold. Examples are taxpayers who stop making sales when they approach the VAT exemption threshold.
- the risk of tax evasion and fraud. These two phenomena fuel the underground economy and international tax evasion, i.e. the transfer of profits to territories with more relaxed taxation;
- inflation risk through taxation, with higher taxes being passed on to inflation through higher prices;
- the risk of reduced international competitiveness for domestic products and reduced investment capacity.

We consider that one of the negative effects of fiscal pressure is the option for employers to benefit from the services of "black market" or "grey" employees, the provision of work without an employment contract or its under-declaration, having the effect of non-declaration and non-payment of taxes and contributions related to wages, thus fueling the underground economy. "Grey" work is, in fact, also a form of tax evasion, as it manifests itself in the non-payment in full of compulsory levies on undeclared work.

We believe that this widespread phenomenon, with negative repercussions on the consolidated state budget, must be combated through rigorous controls in high-risk areas from this perspective, such as construction, car services or catering/tourism. We believe that rigorous checks with joint teams of labour inspectors and anti-fraud inspectors analyzing the evolution of the company in relation to the number of employees and the work the company has carried out in at least the last three years, as well as careful monitoring of the taxpayer in the period prior to the control, would be particularly important.

Both budget revenues and the business environment are affected by tax fraud, but undeclared work has both fiscal and economic implications, but also a strong social impact, due on the one hand to the fact that remuneration is below the minimum level, and on the other hand, to the fact that those who work without legal forms are deprived of social security (pension, health, unemployment). This type of tax default reduces the budget revenue collected while unduly increasing the cost of collection.

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As long as public spending is carried out transparently, justifiably and fairly for the common good of taxpayers, they too will contribute to the fight against the "shadow" economy in support of the authorities [22].

At the same time, in the authorities' fight against this type of evasion, the ability of the institutions administering these taxes and duties to identify, react and solve cases of evasion in a timely manner so that those involved in these forms of evasion and fraud do not dispose of their assets in order to recover the damage is very important.

7. The effects of tax evasion

The most conclusive analysis of the effects of tax evasion is made in direct relation to the results of control operations, a statistical analysis of the data resulting from the activities of the control bodies. The effects of tax evasion are as harmful and problematic as can be, not only quantitatively but also socially, politically, but above all economically and financially.

The major impact of tax evasion is manifested on the general consolidated budget of the state by the reduction of budget revenues and implicitly its under-sizing in relation to the forecasts contained in the previous draft budget, being unable to provide the necessary [23] funds thus unbalancing the economy, budget revenues being those that give it stability [24].

The area most affected by tax evasion is, of course, the economic sector, with the various types of fraud having a direct impact on competition and certainly distorting it. The continued existence on the market of companies that resort to tax avoidance practices is made possible by the fact that these companies charge lower prices and tariffs than those charged to honest taxpayers, due to the reduced cost of the amount of taxes evaded. Through tax evasion, tax evaders accumulate capital much more easily than they normally would, unnaturally and unfairly outstripping the honest accumulation of capital by firms that comply with current tax laws and rules. At the macroeconomic level, tax evasion has repercussions on the budget balance, destabilizing budget revenues.

The effects of tax evasion are also of a social nature due to the unequal redistribution of income, leading to inequalities between those who evade the law and those who comply with tax obligations, unequal in terms of payment but identical in terms of their ability to pay. All this has repercussions on each individual, on the individual standard of living, leading to various social tensions.

The political segment is also affected by the effects of tax fraud, as state institutions are no longer credible and unable to assert themselves before taxpayers. The phenomenon of tax evasion generates a challenge to state power by those who contribute to the state budget, who do not agree with what the state imposes on them and how it redistributes income, reacting to inequalities through non-compliance and evasion.

Taken as a whole, the effects of tax evasion, closely linked to corruption, have a devastating impact on the economies of developing countries such as Romania, endangering social, economic and fiscal policies. The phenomenon of tax evasion is anti-democratic, violating the principles of the rule of law by diluting and implicitly reducing public revenues, making it impossible for the state, through its institutions, to achieve its objectives.

8. Tax evasion from institutional perception to public acceptance

In increasing and improving the taxpayer's tax morale, trust in the state authorities plays a particularly important role. The example that the state sets for the taxpaying citizen is taken as a reference model in any action the taxpayer takes.

According to surveys conducted in recent years, Romanians' trust in public institutions is slightly increasing, which means that the Romanian society is starting to adopt the position of some developed EU countries.

Trust in public institutions is closely related to the perception of corruption. At the same time, fiscal pressure is assumed to be related to corruption because bribery of those working in the administration is believed to be a means used by entrepreneurs to evade the law and avoid taxation.

Corruption is widespread in both emerging and developed countries. Corruption is specific to each country, with the extent of tax and budget corruption having a major influence on both the general tax structure specific to each country and the tax management systems used in that country [25]. We note that the implementation of a complex tax system with large fluctuations in tax rates often has negative effects on tax morale, even to the extent of taxpayers resorting to bribery in their dealings with tax collectors.

The increase in taxation, which often weighs heavily on the shoulders of honest taxpayers, is largely due to the inappropriate tax behavior of a significant proportion of economic operators, generated by the failure to declare and pay taxes, duties or compulsory contributions, due to the overly permissive penalty framework, the lack of check-ups or the application of modest penalties by the State. Thus, the honest attitude and tax morale of some taxpayers may be negatively influenced by the perception of the degree of corruption within the borders of each state in part. Reducing tax corruption and tax arrears will have the positive effect of reducing the level of real taxation

According to Transparency International [26], the global anti-corruption movement founded in 1993, whose main vision is "a world free of corruption", the phenomenon of corruption negatively affects societies in a variety of ways, reaching some of the most severe effects, paid with human lives. In many cases corruption is paid with

freedom, health or even money. The same organization divides the costs of corruption into four main categories:

- political in nature, so from this perspective corruption hinders the manifestations and freedoms of democracy and it comes against the principles of the rule of law. The quality of the institutional act decreases dramatically when in a democratic society, institutions are used for private advantage or discretion by those who manage them, losing their legitimacy and credibility.
- of an economic nature corruption swallows up public wealth and removes private assets. Corrupt politicians allocate scarce resources to national interests, directing public resources to projects that benefit private interest groups at the expense of communities. Corruption is also a major obstacle to the development of an honest market environment and distorts the competitive environment, with a negative impact on investment.
- of a social nature because corruption is a powerful corrosive factor in the social structure of any developed or emerging society. A corrupt system is reflected in a low degree of public confidence in the administration and politics. A society without trust will be uncooperative and apathetic.
- of an environmental nature: environmental damage due to poor or non-enforcement of the legislation is a serious consequence of corruption. Thus, resources will be exploited irrationally and detrimentally, devastating entire ecological systems. The level of corruption steadily degrades the society in which we live both economically and morally, and it is against all principles that those who break the rules prosper and those who obey the law and comply are increasingly burdened.

9. Conclusions

According to the authors, the phenomenon of tax evasion is exclusively due to flagrant violation of the law. The perpetrators take advantage of the ways in which taxation is carried out by disguising the reality of the taxable object and distorting, seriously underestimating the amount of the taxable matter in order to reduce the tax burden (taxes, duties and compulsory social contributions), committing an illegal action, a violation of the legal statute of limitations, an offense that entails penalties, namely criminal liability.

From a terminological perspective, we do not subscribe to the notion of legal tax evasion, the semantic construction being itself a contradiction, tax evasion being clearly an action deliberately committed by the economic agent who deliberately draws up inaccurate declarations or presents false documents (drawn up by himself or with his knowledge), pays employees with salaries higher than those declared, evades checks. In all these practices there is nothing that should reflect the notion of legal. We believe that this terminological confusion stems from the diversity of meanings given to the notion of legal tax evasion by specialist authors and the

legislation of EU Member States, for example in Belgium and Switzerland, French-speaking countries, the notion of legal fraud is used and accepted.

In fact, the boundary between illegal behaviors that generate tax evasion and fraud and the use of so-called tax solutions or legislative loopholes is only a step that is sometimes difficult to detect by the control bodies but very easy to cross by a taxpayer skilled in exploiting legislative loopholes. The name given to the term tax evasion in EU countries differs from tax avoidance to tax evasion, distinguishing between fiscal evasion and fraud. Drawing conclusions upon the different terminologies given to the notions of "legal tax evasion" vs. "illegal and "legal tax fraud" vs. "Illegal", we consider that tax evasion, although very difficult to define, is an illegal action concerning the behavior of the taxpayer who intends to circumvent the law, thus resorting to various mechanisms to reduce as much as possible the amount of his obligations to the budget, thus affecting tax revenues. Although the law does not make a clear distinction between the two situations, and it gives the taxpayer the possibility to exploit the law skillfully, we consider it appropriate to define the notion of legal and illegal tax evasion, from a criminal point of view, delimiting the two situations, which would be beneficial both for the taxpayer and for the control authorities, would limit the crossing of that borderline between legal and illegal, which is extremely volatile, and would diminish situations of abuse.

We believe that a more precise delimitation of the typologies of evasion, as well as of the honest taxpayers from those who evade the law, would create the possibility to outline a more accurate picture of the phenomenon, its size and determining factors. At the same time, this picture would make it possible to identify in good time effective methods to limit and combat the phenomenon of tax evasion and to act by control bodies.

We believe that the shortcomings of the legislative system in the field of taxation have multiple repercussions as a result of the interpretation of the legislative framework in a favorable way by taxpayers, and with regard to its application by the tax authorities. In the latter case, it is particularly important to provide constant and sustained professional training to the bodies empowered to carry out control activities, to fill the positions only through a competition in which the principle of competence should be paramount, which is an absolute prerequisite, first and foremost for those with managerial functions to whom the inspectors with executive functions are directly subordinated, whose professionalism, vision, managerial capacity and coordination depend on the proper functioning of the entire structure and the efficient achievement of the institution's objectives.

Also, a concentrated action of all institutions involved in the fight against tax evasion and fraud, a close and sustained cooperation between institutions with competences

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in preventing and combating tax evasion, can considerably limit the extent of tax evasion and fraud. Thus, we believe that the collaboration of several institutions with control and monitoring duties is necessary. A control action by the anti-fraud structure, even from the early phase of the analysis and preparation of the control, would be more effective and have better results if specialists from other structures supported these steps by monitoring the taxpayer, the chain of transactions to which he belongs, the banking transactions, the use of means of communication, in order to collect evidence that the persons carrying out the tax or Anti-Fraud inspection can use in their investigation and on the basis of which they can better substantiate the findings.

We conclude that the implementation of systems that ensure the estimation of this phenomenon supports tax authorities in their efforts to define and achieve the operational objectives in what regards the minimization of tax evasion and tax planning. At the same time, we believe that the implementation of a computer system that would function as a common database of control institutions, which would contain all the forms of tax evasion identified, by field of activity and by type of tax, and which could provide data on the companies and persons involved, on the damage caused, would be of real use to the authorities empowered to carry out activities to prevent and combat tax evasion.

The elimination of ambiguities in the tax rules has the effect of providing stability for the business environment, being a major benefit to taxpayers, strongly encouraging investment and compliance with tax laws, achieving the essential objective of developing the Union's single market based on the principles and freedoms underlying the European Union Treaties [27].

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