

CAUSES OF TAX EVASION AND HOW TO REDUCE IT**Marcel ȘUVELEA**, PhD StudentNational Agency for Fiscal Administration – General Directorate for Administration
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Abstract: *The level of taxation is influenced and determined by several factors such as: the performance of the economy at any given time, the effectiveness of financed from taxes public expenditure, property structure, public needs as determined by Government policy and approved by the Parliament, the degree of contributors' understanding of budgetary needs and adherence to Government policy, the stage of democracy in one country or another, etc. These make that between tax level and its base, represented by the GDP, not to be a strict correlation. On the State budget and public finance, the cases of tax evasion or avoidance may not have manifested but negative effects. In reality, even the potentiality of cases of tax evasion by taxpayers, adversely affect public funds through the necessary expenditure to be earmarked for the prevention and monitoring of the tax payers. The higher is the extent of the phenomenon of tax evasion, the more the public finances of a State will suffer. If this phenomenon is joined by a weak economy and a shaky fiscal system, the negative effects are augmented. It should also be pointed out another important aspect of feeble public finances: chances are that fiscal bodies to act in that tough situation under emergency and pressure status and to deceive this tension on the economy, making it more unfit to uphold degraded public finances.*

Key words: tax evasion, fiscal fraud, state budget and public finance**JEL Clasification:** H2, H26, H3

Tax evasion is one of the most important and complex social-economic phenomena which nowadays states are confronted with and which undesired consequences should be limited as much as possible, their total elimination being, practically, impossible. The effects of tax evasion directly strike against the level of fiscal income, lead to distortions in the market mechanism and may contribute to social inequities (their increase), due to the different "access" and "willingness" of the contributors to evade taxes.

Causes which are at the roots of committing acts and actions of tax evasion and fiscal fraud are pretty much, but the most frequent are split in four big categories: moral, political, economic and technical causes.

They will be treating in the following, according to our own perception.

1. The moral causes are not only related to fiscal civism, to consciousness and conscientiousness of the taxpayer in respect of the payment of the obligations to be paid to the State, but in the same measure to human reason that puts the issue of taxation morality in general, the right and honest obtained revenue, from hard work, and particularly to an excessive taxation in conjunction with an often proved ineffective use of tax revenues by the State.

2. Political causes are inadequate use of fiscal policy. The political factor through an unskillful maneuver of taxation in order to overly encourage certain categories of citizens and burdened too much on others is liable to incite fiscal evasion attempts for protection and

justice. There can be no doubt that, beyond the principle of tax equity, is hiding, in the cruel reality of contemporary societies, the fiscal and tax privileges and discrimination, regardless of political orientation of those in power. This is explained, first, that since there is the world, the many, the ones in the base rows that support the society, particularly the simple employees or workers, were appointed to ultimately bear all the naturally come or required by those at the helm of power burdens.

3. Economic causes refer to the stage of development and the economic situation of a country and the well-being and economic situation of its citizens-taxpayers. These causes can also feed the inclination to avoid payment of the taxes. As it is known and demonstrated, in developing countries both potential tax evasion and the actual evasion are higher than in developed countries, even if it's individual and national level is a tribute to the poor state of economic development.

4. Technical tax evasion causes are related, as appropriate, either to the precariousness of tax systems or their complexity. It is equally exciting to make tax evasion, if there is the necessary predisposition, both in a fragile fiscal system, under-developed and regulated, and in a complex one where there are a multitude of technical details, methods and models regarding the taxation, which make difficult to precisely calculate the tax debt by the tax payers and also the tax inspection by the tax authorities.

At the same time you can't just highlight tax fraud and evasion cases without having to insist and to outline the consequences of the phenomenon of tax evasion on the fraudsters, the State budget and public finances and lastly on society as a whole.

On the fraudsters, the follow-ups may be, from case to case, positive or negative. A tax evasion is made in order to avoid the payment of amounts to the State budgets so that the taxpayer's assets shall not be affected with a legal obligation to pay. To the extent that the action of evasion is successful, then the taxpayer's wealth will be higher than it would have been if he had paid the legal obligations to the State, exactly with the amount that was stolen. If we consider the possibility to use this amount in the future for fruit bearing, then enriching through tax evasion, compared to the situation when it respected the law, would be even more consistent. Even if the success of the action of tax evasion is aided by corrupting individuals in tax administration or justice, normally fraudsters should have a short and/or long-term gain. Evasion action can succeed amid various circumstances: the ability of the fraudsters, law imperfections and gaps, flaws in the organization of the tax authorities in the pursuit of tax burdens on taxpayers and fiscal control, lack of firmness in the application of the law, corrupting someone in the taxation or legal structures, etc. In the situation, predicament for tax Dodgers, their actions of tax evasion are failing, in the sense that sooner or later the competent authorities discover tax evasion maneuvers, then the consequences of tax evasion on the ones they produced will be negative. Being applied the rigors of the law, they will have to cover the damage created and to respond, where appropriate, also criminally. In this case, the fiscal risk they assumed is taking its effects.

On the State budget and public finance, the cases of tax evasion or avoidance may not have manifested but negative effects. In reality, even the potentiality of cases of tax evasion by taxpayers, adversely affect public funds through the necessary expenditure to be earmarked for the prevention and monitoring of the tax payers. The higher is the extent of the phenomenon of tax evasion, the more the public finances of a State will suffer. If this phenomenon is joined by a weak economy and a shaky fiscal system, the negative effects are augmented. It should also be pointed out another important aspect of feeble public finances: chances are that fiscal bodies to act in that tough situation under emergency and pressure status and to deceive this tension on the economy, making it more unfit to uphold degraded public finances.

On society as a whole, tax evasion has, as in the case of public finances, only negative follow-ups. First, because through the success of some to evade taxes, tax inequity grows: there is an increased prosperity to those who succeeded in this endeavor, assuming the tax risk, compared with the plight of those who exhibit fiscal civism required by law. Then, especially if tax evasion is extended with important amounts, it is expected that the amounts lost by the State to be passed on to other taxpayers, by increasing the future tax burden they have to bear. Last but not least, the power of the example being high, an increased number of taxpayers who have succeeded in achieving tax evasion, can also contaminate other contributors. Tax evasion often being associated with acts and crimes of corruption, the society may also record a bigger decline of morality of its citizens.

Explanations of the fiscal pressure's evolution, meaning their upside, must be, according to many researchers, searched in the inexorable increase of government spending, which at their turn are subject to certain economic, social and political "legalities". The level of taxation is influenced and determined by several factors such as: the performance of the economy at any given time, the effectiveness of financed from taxes public expenditure, property structure, public needs as determined by Government policy and approved by the Parliament, the degree of contributors' understanding of budgetary needs and adherence to Government policy, the stage of democracy in one country or another, etc. These make that between tax level and its base, represented by the GDP, not to be a strict correlation.

If we would try to systematize the above exposed factors, we could group them as follows:

1. the level of public expenditure to be covered which, in turn is influenced by the following factors:
 - a. the size and efficiency of public bureaucracy (IE extension and the functionality of the State);
 - b. the extent of implemented public policies (the production of public goods and services, the subsidization and support of the economic activity, subsidizing income-i.e. minimal income guarantee, regulation of private decisions on allocation and operation of the market, ensuring the rules of law, etc.);
2. the level of GDP, i.e. the degree of economic development of a country; It is influenced by the factors:
 - a. the heritage of production factors (particularly the capital) and how to use them;
 - b. the structure of the economy (industries that contribute to the achievement of GDP) and its degree of modernization;
 - c. the size and structure of foreign and interior markets.
3. the functionality of the tax system, determined by:
 - a. the structure of taxes and fees;
 - b. the means to regulate and enforce the fiscal law;
 - c. size and effectiveness of the fiscal system;
 - d. size of the tax evasion and its tradition.
4. influences from outside the country, brought about by induction of phenomena such as: pressure of the international community and organizations, especially in respect of employment in certain levels of budgetary deficits; inflation; economic and financial crises; tax experiences; attitudes of taxpayers in other countries relative to taxation; pressure of multinational companies to take advantage of diverse facilities and facilities, fiscal included, etc.

The fiscal pressure indicator is very often used in the making of temporal and international comparisons which often produces erroneous interpretations precisely because of the many strings attached to its levels, as indicated above. As a result, in addition to an

objective fiscal pressure, technically determined as required by the financing needs of public spending, there is also a (felt) psychological fiscal pressure that measures the threshold of tolerance to taxes. Most often, this takes the form of individual tax pressure which is the ratio between the total levies incurred by the taxpayer and the total income obtained by him before taxation. It expresses the sacrifice that the taxpayer is forced to agree upon all wealth obtained by him during a given period (usually one year). As a result, individual tax pressure allows to take into account the subjective elements of social life.

Simply by its existence, the tax is able to alter the economic and social behavior of the taxpayer, by the influence exerted on consumption and its saving degree. Increasing fiscal pressure will cause the taxpayer to opt between needs (necessities) that are to be satisfied and to choose those that have the greatest utility. Tax incidence is so entirely influenced by the elasticity of the needs. It also varies depending on the nature of the tax. A reduction in disposable income resulting from the taxation will lead to automatic savings reduction. Income tax adversely affects both the ability of saving, and consuming intentions in different proportions, depending on the social categories.

Individual tax pressure is, however, very difficult to set accurately, within certain limits, as long as it remains wedded to some random items that relate to the diversity of the abstraction, often occult character of their incorporation into prices, the volume of services that the taxpayer receives from the community and which is very difficult to assess, the subjective elements, as well as technical interventions for cashing (retention at source), which annihilates the sensitivity of the subject of taxation.

Fiscal pressure limits cannot be set so as to be scientifically based and put into practice in order to achieve "optimal tax" both from the taxpayer's point of view, and from the public powers' one. This is because the problem of limits lead us to considerations that are, at the same time, psychological, political and economic.

The political and psychological limits are imposed by taxpayers' reactions who may oppose a strong resistance to mandatory levies rise, when they consider to be excessive by: evasion, fraud, reduce the productive activity and even, in some cases the movements of protest or riots. Also, some compulsory levies can be made to appear less noticeable, and therefore more bearable by using techniques such as indirect taxation or withholding at source; the multiplication and diversification of sources of taxes' purchase, which make tax systems to be obscure and complex, etc.

On the other hand, taxpayers, in general, tend to see the compulsory levies as a seizure of a part of their income, without taking into account the advantages they benefit from public spending financed by them. In setting the fiscal pressure limits, an important contribution has also the political factor. It, represented by political parties, usually before elections, promise taxpayers tax pressure relief and, often, after winning the elections, they cannot or do not want to heed the promises previously made.

Economic related limits show the fact that minimum levies may have the effect of breaking the tilt towards the work, savings and investment, and the weakening of entrepreneurship. In a deeply competitive world, economic competitiveness is imperative for public powers, being one of the major economic concerns. From this point of view, businesses have all the interest to be affected by lighter social and fiscal burdens.

If increasing the fiscal pressure is borne by families, it doesn't regard less the enterprises' competitiveness, provided however, that the increase in indirect taxes, social contributions or indirect taxes borne by families not to be offset by wage increases. Such an orientation requires that worsening fiscal pressure to be funded based on purchasing power. As productivity increases, living standards improve as well, so fiscal pressure may significantly grow without reducing the purchasing power of the available income. The orientation of the rising levies more on families than on enterprises may also be justified by

the fact that they are the only economic agents who benefit from public spending and support, in reality, the burden of compulsory levies.

On one hand, the families are the most direct beneficiaries of public spending and even of the expenditure for enterprises (grants) as customers, employees or owners of these enterprises. On the other hand, taxes and social contributions that are legally put in charge on enterprises, however, are ultimately borne by families (as consumers, employees or owners). Directly imposing additional levies on the families, without passing through the taxes or contributions of enterprises, it is possible, under these conditions, to increase tax pressure without risking the competitiveness' weakening.

Tax pressure-induced offsets are expressed in that they constitute also an advantage for taxpayers through government spending it finances. In addition, according to P. A. Samuelson, reducing taxes carries expansion effects, but reducing taxes has a weaker effect than increasing government spending.

Avoiding taxes, without committing a tax crime, can occur in three ways:

1. the law provides tax evasion itself through a tax system of favor (here is the case, in particular, of the relevant standard of taxable assessment and tax heavens);
2. simply abstaining by the taxpayer to perform (run) the activity, the operation or the act of taxation; This method is common in the case of excessive taxation (fiscal overpressure) because the marginal tax rate is very high and the taxpayer prefers to abstain from providing an additional unit of work; tax evasion is occurring in this case through the substitution of free time relieved and taxed labor;
3. by using the tax system gaps. In this third case, tax evasion comes down to the ability to tax or choosing ways to pay fewer taxes.

Fraudulent tax evasion can be achieved either through bad faith, i.e., through actions or omissions committed in bad faith for evading taxes, either by fraudulent willingness, by using fraudulent means to evade taxation.

Law No. 241/2005 on preventing and combating tax evasion does not define tax evasion, but only determine the facts constituting the offence of tax evasion. These are:

- not reconstructing, willfully, the destroyed bookkeeping documents, within the time limit entered in the control documents;
- the unjustified refusal to submit to the competent bodies, after being summoned three times, legal documents and property of heritage, with the goal of deterring from financial, tax or customs checks;
- to prevent, in any form, the competent organs to enter, under the conditions provided for by law, in offices, premises or land, for the purpose of carrying out financial, tax or customs checks;
- detention and non-payment, with intention, within maximum 30 days after the due date, of sums representing contributions or taxes with deduction at source;
- putting into circulation, without right, of forged stamps, bands or standard forms used in the field of taxation, under special regime;
- printing or putting into circulation, willfully, of forged stamps, bands or standard forms used in the field of taxation, under special regime;
- setting in bad faith of taxes, fees or contributions, resulting in procurement, without right, of sums of money by way of repayment or remission of the consolidated general budget or compensation due to the consolidated general budget;
- hid taxable good or source, in order to avoid tax obligations;
- the omission, in whole or in part, to record, in accounting documents or in other legal documents, commercial operations or revenue in order to circumvent tax obligations;

- provision, in accounting documents or in other legal documents, of spending that isn't based on actual operations or highlighting other fictitious transactions, in order to circumvent tax obligations;
- altering, destroying or hiding accounting documents, registers of electronic charged memories or fiscal cash registers or other means of data storage, in order to circumvent the fulfillment of tax liabilities;
- execution of double accounting records using writings or other means of data storage, in order to circumvent the fulfillment of tax obligations;
- evasion from tax, financial or customs checks, through the non-declaration, fictitious or inaccurate declarations with respect to principal or secondary offices of the checked persons;
- substitution, degradation or alienation by the debtor or by the third party of seized goods in accordance with the provisions of the Tax Procedure Code and of the Code of Criminal Procedure.

How to reduce tax evasion

On the basis of practical considerations, some specialists of the Ministry of public finance have concluded that the most effective method to combat the phenomenon consists in drawing up documents like *«Payer's File»*.

Proof of this lies in the relationship between taxpayers and the fiscal unit, relationship which presupposes the existence of a complex process, in which the following steps are required:

- determination and calculation of types of taxes and fees in accordance with the activity objects of each taxpayer, and also with tax legislation;
- determination of tax liability through cutting of taxes and fees with debit or create obligations for the rest of the income taxes;
- their tracking and payment;
- preparation of nominal tax records (per taxpayer), and the centralized ones (for the knowledge of the total volume of revenue from the obligations laid down for each taxpayer or income nature).

Currently, the finding, calculation and determination of the tax liability are known by the fiscal authorities to a satisfactory degree. But the same thing can be said about the transposition of these tax obligations in practice, on condition that a tax inspector has to cover a huge number of contributors.

Importance and necessity of *«Payer's file»* resides in the fact that in such a document should be included the amounts collected, in order to know at any time if the fixed amount were paid or not, whether or not the fixed amount exist, if there are any outstanding amounts or if it has been paid more than the obligations laid down.

Fiscal records must be a «mirror» for both taxpayers and the tax unit, with the purpose of calculating and determining the tax liability as well as the preparation of forms for tracking and collection of taxes and fees.

Another mean to reduce tax evasion is fiscal relaxation. Taxation threshold bearable by taxpayers was constantly raised by technicians, and practice seemed to overpass it every time.

The tax ceiling is variable because the maximum tax pressure is more a perception that changes depending on economic, political, social and psychological circumstances. The idea that “too much tax kills tax” change in the thinking of many economies.

The main cause for which fiscal relaxation operates is that a high taxation involves a series of “threats” to the real economy:

- reinforces evolution and the restructuring of domestic demand;
- hides a part of economic activity towards national accounts;

Fiscal loosening must be accompanied by a strategy which needs to consider increasing the capacity of the tax administration, through:

- separating tax administration from tax policy;
- removal of exemption or rescheduling debts to public budgets;
- reconsideration of tax evasion as an economic-financial crime and punish it as such;
- eliminate practices of amending tax regulations through legal acts of lower rank;
- increase administrative capacity of institutions which collect taxes and fees;
- assessment of the tax inspection procedures and the adoption of strict rules of ethics in the work of fiscal control, through cooperation with public authorities and business community.

The effectiveness of the work of the institutions responsible for the control of the tax could be much higher if they would put more emphasis on the prevention of the phenomenon which, as we have seen, not only depends on the degree of consciousness and seriousness of the taxpayer. It depends to a large extent on creating coherent and fair tax laws, fiscal pressure decrease and increase the level of economic and social development.

In the current Romanian economic conditions, tax professionals believe that if fiscal rules, on the one hand, and the endowment of the tax audit, on the other hand, would be better designed, it could accomplish two extremely important things to combat the phenomenon, namely:

- reducing tax evasion (wind up being impossible) and creating a balance between the members of the society, for the purposes of a medium-sized population, able to accumulate income in parallel with the maintenance of a central social budget as balanced, in the most part through their contribution;
- fiscal pressure decrease among taxpayers that would ultimately lead to a decrease in tax evasion.

An effective way¹⁶ in combating tax evasion is also the concern to concentrate the taxes in areas that may be pursued by tax authorities with minimized costs. In support of this claim is that income taxes based on the contributors' assessment, bring to the budget less income than those retained directly by the State.

Record and following of fiscal discipline is carried out by means of fiscal criminal record. This tool requires the existence of a system of records of taxpayers who have committed acts which are tax, financial regulations, or which relates to financial discipline.¹⁷

In accordance with the regulations in force¹⁸, the acts which will be registered in the record of the tax payers are:

- refusing to submit to authorized by law control bodies, the supporting documents and records of accounts and material possessions which are subject to taxes, fees and contributions from public funds, in order to establish budgetary obligations;
- putting into service, in any manner, without the law, or the possession for the purposes of movement without the right financial and tax documents;

¹⁶Pătroi, Dragoș, The offending nature of deviations from fiscal rules, Public Finances and Accountability Magazine, no. 3 – March 2006

¹⁷ Iulian Văcărel & others, Public Finances, Didactic and Pedagogical Publishing House, Bucharest, 2003

¹⁸ Decision 299 for the modification and completion of the GD 31/2003, regarding the methodology of enforcing the GD 75/2001 on organizing and functioning of the fiscal record, published in the Official Bulletin no. 237/16.03.2006

- putting into service, in any manner, without the right, or the possession for the purposes of movement without the right, of financial and tax documents;
- evasion of the payment of tax obligations by non-registration of activities for which the law provides the obligation of registration, in order to obtain incomes;
- the omission, in whole or in part, to provide in accounting or in other legal documents, the commercial operations or revenues or recording of fake operations or expenditure in order not to pay tax, or to diminish the tax or contribution;
- organization and management of double accounting records, tampering with or destroying accounting documents, registers of charged memories of fiscal cash registers or other means of storing data in order to reduce income or taxable supplies;
- conscious issuance, distribution, purchase, completion or acceptance of false tax documents;
- evasion of tax liability payment by transfer of shares held in a company with limited liability, made for that purpose;
- alienation, in fraud of creditors, in the event of the bankruptcy of a company, of a significant part of the shares;

The tax criminal record should contain only the final and irrevocable facts established through control documents completed starting with September 8, 2002, even if the acts were committed in the previous period.

Conclusions

Tax evasion affects society as a whole, by affecting the budget incomes, which leads to insufficient financing of social and economic policy of the State, but also by practicing unfair competition and distorting the business environment.

Polemics upon the disastrous status of Romanian economy are becoming more common, and also on the State budget and, implicitly, on the figure of the State administration and its efficiency in spending public money. A State which cannot cover the greater part of expenditure on account of budgetary resources is lacking specific levers of intervention in the economy and in society, which significantly affects the ability to financially support the economic and social policy, and sustainable development in all areas of interest, respectively. I think that in Romania, the priority objective of fiscal-budgetary policy must be to improve the collection of taxes and levies due to the budget, and not raising taxes.

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