The Evasion-Motivation, Reaction and Economic Reasons

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ABSTRACT  The tax evasion is and has been a controversial phenomenon over time. Specialists in finance and the competent bodies of the village have always tried to find measures to control and limit this. In this paper, the authors aim to present the motivations behind the tax evasion. They seek both personal considerations and opportunities offered by the current legislation. The state of satiation of man and his daily comfort are perhaps the most important barometers in the analysis of the tax evasion. We don't have to neglect also the aspect of the pressure put by the state through its fiscal and budgetary policy, which creates discomfort and willingness to violate the legal rules in certain situation.

KEY WORDS  Tax evasion, fiscal facilities, fiscal obligations, fiscal havens

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1. Introduction

The tax evasion is “theft by any imposition or payment of taxes, contributions and other amounts owed to the state budget, local budgets, social security and special funds by individuals and Romanian or foreign legal persons"according to Law. 87 of 18.10.1994.

In another sense, the tax evasion means skipping in different ways the tax liabilities, concealing in different forms the sources of taxable income amount.

The explanatory Dictionary of Romanian language defines tax evasion as the avoidance of tax obligations and avoiding action as a person to acquire, by fraud or deception, something that belongs to another person, to evade from something, get rid of something.

2. The motivation of the fiscal evasion

Various philosophers and sociologists have based their works on the fact that men are hedonic beings and aim to satisfy their own pleasures. This concept would justify a certain extent of its intention to do acts of evasion and fraud that have the immediate result of a net income and thus increase their comfort.

All sociological studies have shown that not all people have similar perceptions regarding the willingness of getting rich, some content with some comfort; others are watching their growth over a certain threshold which is necessary and sufficient.

According to a study made by the Capital magazine, the profile of a performing businessman includes the following features, listed in order of their importance:
1. Plays honest, uses proper means to obtain the contracts/works;
2. Is sure that his employees earn well;
3. He pays taxes and obligations;
4. Ensures decent working conditions for employees;
5. Creates jobs in Romania;
6. He’s resourceful;
7. Helps those in need/donate;
8. Obtains higher profit;
9. Works hard for his business;
10. He developed his own business;
11. He built one or more strong companies;
12. He’s organized;
13. He’s creative;
14. He obtained national and international awards.

We noticed that one of the features highlighted is getting a big profit. Therefore, we believe that a person’s motivation to improve their lives through tax evasion and fraud has two reasons:

A. Personal considerate
   These include the following components:
   1. The psychological side – according to which the person analyzes his behavior, is aware of his actions, but reaches to the conclusion that his incomes are unsatisfying reported to the work made and paying all the taxes that’s why he accepts the risk of being caught, assuming his responsibility.
   2. The social side – is reflected in the standard of living of the person, reported to the general living standards. Depending on the state fiscal pressure, the standard of living of the taxpayers’ is increasing or decreasing. This depends on the quality of the taxpayer to adapt to a particular fiscal pressure. Most of the special style considers that a healthy economy is based on a middle social standard. Depending on the financial strength of the state, the citizens’ feelings and

Figure no.1. The profile of a performing businessman
the intensity of the social issues, men shall establish some thresholds, the limit of which they support to interact.

Suppose a man understands his own right and his family based on a house, a car, able to conduct research or academic environments and to receive social security, to maintain children and ensure their needs daily. For this he needs to obtain income. Its income is obtained from a dependent or independent activity for which he due taxes to the state. If the revenue needed to cover its expenses is obtained with minimum effort and maximum daily average, then the person will be interested in stealing a little of the revenue from taxation.

Putting in balance his comfort and the risk of constraint, exercised by the state, it will tilt in favor of the comfort. First, this choice is based on the conservation of human desire and on the elimination of problems.

Another situation is that the person concerned finds that his efforts and analyzes using maximum effort made to income is not sufficient to cover its expenses. This situation leads him to seek solutions to increase revenues. Reducing costs does not count considering that we started from the premise that all these expenses are necessary. Revenue growth can be achieved by obtaining another job or pursuit of other gainful activities. This is achieved, but with a new effort, if we determined that our model started from a maximum effort, which shows that this option is not valid.

This analysis knocks the idea of reducing the amounts payable to the State as taxes on income, a way which at the end his income will increase. Arguments could be multiple:
- Being in the desperate situation of not being able to support his family;
- Belief that the state should do more for its citizens;
- Despair that his efforts resulted in a tax that would ensure the comfort;
- Follow that other taxpayers have a higher income and benefit from a greater comfort, although their efforts are similar;
- Coverage of business that brought so exorbitant revenues to some etc.

From now on and until the action there was left only one step that will be passed by only by the existence of family matters.

This time the damage should be immediately noted by the State, which should reduce the tax burden. If you do not do this, the taxpayer will take action, and in practice has proven that the reconversion cannot achieve the desired performance.

By reducing the tax burden, the taxpayer will cover all or part of his family and the budget deficit and will not act to steal a part of the income from taxation.

The third situation is where the taxpayer’s income to him and his family are plentiful, but the desire to get rich quick tries and often fails to steal part of the income from taxation.

Its action is favored by the state or the anony legislative permissiveness.

An important approach must be made on the influence of taxation on small taxpayers, compared with larger taxpayers. Various studies have shown that practice reflected painful taxes on small entities. Thus, suppose that a taxpayer makes a taxable monthly income of 1,000 euro, after tax, about 840 euro. Of this amount, it must cover a minimum cost of maintaining the house and car, daily feeding, the comforts of home, education, health etc.

If their total value amounts to 800 euro, the person has the necessary funds, but no longer any money left for savings.
Another taxpayer taxable income of 10,000 euro, may make expenditures up to Euro 8400 with what is left after tax. Taking into account the same minimum cost of the taxpayer, € 800, we find that it remains with savings amounting to 7600 euro. From this approach, even if it’s quite intrinsic, it results that the same fiscal pressure creates more discomfort than the taxpayer. If we add the possibility of fines which, in most cases, are higher for the small taxpayers than the large ones, we have outlined a bleak landscape, with an indefinite horizon. We believe that the tax system should consider a minimum standard of living and therefore, the income tax up to a certain amount (not the one from now) shouldn’t be made.

3. Economic and material side

After 50 years of centralized economy, where the citizen goods were actually owned by the state, the property sense showed out. Many people found that it was time for acquisition of property by any means and any risks. Sometimes the risks were small, given the lack of sanctions. So, who was at the right time and the right place, was able to change his financial situation, his family and even his followers

B. Legislative opportunities

These facilities have been offered by the globalization of capital.

In any tax system, all the ways that the legislature "deviates" from the standard regulations on the tax forms are generating favorable tax evasion and fraud. In high financial market are those who slipped using the legislative and derogations accepted by the legislators, find how factual, that lead, at least at first glance, the circumvention of a valid part of the taxes due to the State budget Although the purpose of the legislature by the adoption of facilities is to protect some people, restore a specific economic area or remount a business which became uninteresting to investors, the result is often, avoiding by some taxpayers, prosaically called "smart guys" the general government obligations, benefits which normally they wouldn’t have access to.

Internationally, the concern has increased researchers and officials with decision-making related to tax evasion pseudo legal of prosperous companies. They, through artificial transactions, impalpable in commercially, legally avoided taxes on profits or income, causing an adverse reaction from those involved in the analyzing of the social impact of these practices on taxpayers.

Professionals in this highly ingenious scheme create complex legal tax evasion, favorably interpreting for companies in order to avoid double taxation agreements, the extent of the state jurisdiction and the tax residence. At a meeting of the Governmental Affairs Committee of the U.S. (November 18, 2003), Senator Joe Lieberman said: "The elite lawyers, accountants and financial advisers have abused the law and have violated professional ethics principles in exchange for huge sums of money to help customers to avoid paying taxes".1

In the U.S. banking system there is an obligation of the banks, as a percentage of deposits held in U.S. to be placed every evening at the Federal Reserve Bank (FRB) in a reserve account, non-interest bearing. The desire not to deprive customers of some of the interest due, but more not to lose some of the clientele, banks establish their branches abroad where sending a certain part of the money available in that day. The legal forms of tax evasion represent a favorable alternative for the tax collection system. Using various forms of exemptions, reductions, capital placement extraneous, and a company may have more cash and greater efficiency of its business. In this situation there is less opportunity to borrow, where deductible interest expense will be lower, the state budget managed to collect more
a) In Russia in the 90s, the standard corporate tax rate was 30%, quite high compared to other tax systems. If you add other taxes payable by a wide range of government institutions, it is understood how big the tax burden is. Thus, with a little control in terms of taxation, most large companies practice an "aggressive tax planning", and even abusive. With the average export price of oil was 13.5 USD/barrel (without excise and export costs) of oil exported Russian oil magnates by companies controlled by them outside Russia, at a cost of only 2.2 USD/barrel. However, these operations were so detrimental to the state budget and the expense of small shareholders who were shareholders of Russian companies and outside the country where capital flowed.

b) The use of the domestic and international companies benefiting from “friendly” tax regimes is meant either to delay the taxation of large companies for a certain period of time or greatly reduce the taxes paid to state.

A company may use a tax haven for the registration of a branch. The income in the country of residence of the parent company will be directed to the branch from the tax havens so that the country-source income to be taxed later. Even if implemented income tax haven will be taxed at source, however the tax will be lower than in the country where it originally came.

Moreover, if there is a treaty to avoid double taxation, taxation will be even better for the parent company. Another form of tax reduction may be the establishment of foreign companies, tax resident in jurisdictions with low taxes, which have considerable assets with which to develop activities of production, satellite distribution companies in several countries, taxation being made but a “friendly” land tax regime (Figure 1)

A parent company from the country A has achieved cost technology at a price of 9,000 euro. Since the land tax is 32%, the parent company set up a firm in country B, where taxation is only 16% and sells the technology for only 10,000 Euros, paying tax of only 320 euro immediately. The products derived from the exploitation of the country A are sold to affiliates in countries D, E, F, at a cost of 100,000 euro, higher than the maximum price of imports from the three countries. This is because in these countries the tax regime is 25% higher than in country B, which invites the declaring countries D, E, F to have a smaller profit. The situation is even more advantageous for the parent company if it creates a company in a third country, C, tax havens (with a tax of only 4.25%), which will be directed to the company's products from country B for only € 50,000.

![Figure 2. Reducing taxes using the prices transfers](image-url)
Of country C, the products will be sold to companies from countries D, E, F at a price even higher than 100,000 euro, taking into account the low-tax regime of tax havens (4.25%) compared to that of countries D, E, F.

Returning to the parent country A, which, in the first phase, through the practice of transfer pricing, postpones the taxation of its actual profits. But if State A exempt foreign income tax or gives credit for taxes paid abroad, the situation is quite advantageous for him. By using the state company C - tax haven, uncooperative, the taxation will be lower but it will also be very difficult to track the work performed by the parent company.

On the grounds that after the entry of the Tax Code are no longer terms that prohibit the sale below cost, with implications for VAT, many Romanian companies exported capital to low in the low-taxing and then to return the other companies at much higher prices.

c) Romania met, in terms of the tax system, the cost of being a tax haven, in 2002-2003, when the micro-enterprise income tax was 1.5% and the tax on dividends was obtained from individual 5%, which led to transfer a total tax of 6.5%, much lower than in many other laws - tax havens

d) The method of late payment of some taxes is often used by the taxpayers from Romania. We have shown in another chapter of a situation of waste collection companies have a duty rather than the VAT due in June. As society representatives needed for various investment funds in the next period, they contacted a construction company (which also was the same economic group) with a contract for execution of construction works worth 1 million USD. The waste collection company has been executing invoice issued last June, which resulted in reducing VAT that was to be paid in half, while so-called performer has signed the bill in question in the log on VAT of July 1, postponing the related VAT.

e) By creating Euro region Giurgiu-Ruse, they wanted an economic development of the area and raising the living standards, based on the rising unemployment rates, low welfare, not enough schools, lack of teachers, etc.

In 1996 Giurgiu Free Zone was created on an area of 153.6 hectares. It aimed at promoting international trade, attracting foreign capital, new technologies etc. In this area operate hundreds of companies who enjoy the exemption from VAT, excise and income tax.

Taking advantage of the facilities offered by the free zone, many companies try to maximize profits in the area, often resorting to fraudulent tax evasion. Many companies, though registered in the free zone, have their business center or are working in other areas. Not infrequently, the containers were removed and were placed on the free internal market without customs duties.

f) In Romania, due to the budget insurance contributions rather high, but also because of the higher taxes or inability to use profits soon, many companies use tax havens companies to solve their problems. Thus, if a director has been negotiating a salary of 5000 euro / month, the amount attributable to the employer who pays the state salary is about 3,500 euro net. In order not to reach 8500 euro for the expense, the employer sends a company accounts in a tax haven (which often is even shareholder) under contracts consultancy, where money related to salaries are paid into personal accounts of employees. The introduction of micro-enterprises income tax somehow simplified the operations. Directors of larger companies set up trading companies to take advice and receive wages by issuing advisory bills, paying tax only on small company’s income (1.5% -3%)
and dividend tax (5% -16%) instead of paying tax on wages and insurance contributions of approximately 45%

    g) Other methods of reducing the taxes and the funds transfers

    1. Loans between shareholder companies

    During its economic development, a company needs funds to finance the activity. In order not to borrow from the bank, which could burden the society, it takes loans from the parent company (shareholder). Thus, the funds are transferred legally from one country to another or from one market to another.

    2. The conversion of debts into shares

    A parent company credits with a low interest a subsidiary which is majority shareholder, thus developing business branch and eliminating risks of loans from financial institutions. On the one hand, the interest expenses are tax deductible, in which case the tax will be reduced. After a certain period, not to return the loan, the debt is converted to shares and the parent company increases its share of contribution, although not required, its share being quite high and it ensures the control.

    3. Using a high rate of interest

    There are situations where the parent company and the subsidiary credit from another country using a very high interest rate.

    Internationally, income obtained from interests by non-residents (the parent companies) are taxed by withholding at source in the country of residence of the subsidiary (the operation is called withholding tax). However, there are double taxation treaties. By placing the parent in legislation with a double taxation treaty favorable to the country of residence of the subsidiary, the parent can receive huge amounts from his subsidiary.

    The interests and royalty payments coming from Romania are exempt from any taxes imposed on those payments in Romania, either through withholding or by declaration, provided that the beneficial owner of the interest or royalties to be an enterprise in another EU or a permanent establishment of an enterprise in a Member State in another Member State. In these circumstances, the parent company can credit the subsidiary in Romania, practicing high interest without paying tax. Even if the interest deductibility is limited, it still reduces the tax on the one hand, and on the other hand removes significant amounts of land. The situation is similar in royalties. Fee means any payment in cash or in kind or the right to use copyrights, patents, inventions, innovations, licenses, know-how-sized factory or trademarks, software, drawings, models, etc

    3. Conclusions

    Trying a duality of character and moving with purpose of exegesis, through all occupations and positions involved in the phenomenon, we have the opportunity to identify the MOTIVATION of the EVASION. From a simple home evasion, the anxiety created and maintained by organized crime which destabilize the tax systems and changes that governments, all have at least one reason:

    - Achieve a better standard of living;
    - Desire to break away from other members of society;
    - Need to increase adrenaline;
    - The desire to demonstrate the system imperfections;
- Denying carnal rules of conduct.
   Besides combating the tax evasion should not be the main concern of the bodies, but finding those means by which the economy is caught in the lawful and preservation of as much in this area.

   One who holds political power is able to control the tax system, being able to change. But he can also act as a boomerang, eroding, to remove the political power.

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