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TRENDS IN THE ROMANIAN TAXATION

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Abstract

Taxation is an essential element in making investment decisions, as it is a cost of the business regardless of its type or size, of the geographical location in which it occurs. Taxation should be seen as an attribute of sovereignty, but for a high tax yield, it is necessary to take into account the aspect of tax consent on the part of the taxpayer.

In the current context, the question arises as to what is the best tax formula for public power to obtain the revenues necessary to cover public expenses.

Key words: tax, fiscal policy, vulnerability, fiscal reform.

INTRODUCTION

The object of our analysis concerns aspects regarding the state of public finances in the current period, the focus being on the fiscal policy of the Romanian state.

It is considered that we are living in moments in which the problems in the public financial field become easier to identify and conceptualize. It must be taken into account that the fiscal policies and measures applied by the authorities can generate both sustainable benefits, an increase in public resources, but also adverse effects such as tax evasion. The behavior of the taxpayer is also a response to the fiscal policies promoted by the governors, therefore, for the taxation compliance of the former, the maxims of convenience, economy and yield of taxes, respectively the principle of individuality of taxation are required to be applied and respected not only at the declarative level (Boța Anton Florin, 2002, p.162).

Tax authorities must also keep pace with taxpayers' expectations, promptly responding to the challenges facing society. Thus, the adoption and implementation of measures to ensure the necessary level of tax revenues must be considered, respecting the principle of legal security and compliance.

In a difficult period, in which resources for the budget must be secured, guaranteeing the taxpayer's trust in the transparency, integrity and impartiality of the tax administration is essential. Respect for the taxpayer and his rights are important components in the continuous evolution of the tax authorities and ensure the credibility of the measures ordered.

I. ACTUAL STATE

During the period of 2007-2009, marked by the effects of the economic crisis, several member states of the European Union entered the excessive deficit procedure (such as Spain, Greece¹ etc).

On April 3, 2020, Council Decision (EU) 2020/509 was adopted regarding the existence of an excessive deficit in Romania² as a result of non-compliance with the criterion regarding the deficit in 2019. On the same date, a recommendation was formulated for our country, in order to end the excessive public deficit situation by 2022. The budget policies of the Romanian state had to follow and support the recovery of the economic activity that suffered during the COVID-19 pandemic, so that, on June 18, 2021, the Council of issued a new recommendation³ addressed to Romania by which the year 2024 was foreseen to put an end to the excessive deficit situation. Also in this document, the Council mentioned that the success of the medium-term fiscal-budgetary strategy will play an important role, thus supporting the consolidation of public finances through reforms.

Through the measures adopted in Romania during the years 2021-2023, it was pursued:

- fighting against the effects of the crisis generated by COVID 19,
- sustainable economic growth,
- fiscal consolidation and reaching the deficit target provided by the European Union,
- implementation of a predictable fiscal policy.

¹ https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Government_finance_statistics/ro&oldid=143851, accessed on 04.09.2023, time 17.00;

² <https://eur-lex.europa.eu/legal-content/RO/TXT/HTML/?uri=CELEX:32020D0509>, accessed on 04.09.2023, time 17.30;

³ [https://eur-lex.europa.eu/legal-content/RO/TXT/PDF/?uri=CELEX:32021H0729\(23\)&from=EN](https://eur-lex.europa.eu/legal-content/RO/TXT/PDF/?uri=CELEX:32021H0729(23)&from=EN), accessed on 04.09.2023, time 17.30;

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This year, the EU Council⁴ issued a new recommendation, which calls for Romania to take measures to:

- adopt fiscal-budgetary policies in accordance with the Council Recommendation of June 18, 2021 in order to resolve the excessive public deficit situation in 2024;

- ensure the absorption of funds in conditions of efficiency;

- implement the recovery and resilience plan, etc.

Fiscal policy aimed during this period and must continue to aim at measures that will facilitate the reduction of the budget deficit. Otherwise, Romania could face serious sanctions that would even consist in the suspension of the granting of the allocated European funds.

II. LEGAL FRAMEWORK. THE NEW TAX MEASURES IN ROMANIA

In the context in which the European regulations that contain provisions regarding the use of various external funds allocated to the states, charge the latter to comply with certain measures, otherwise specific sanctions are established, such as: the total or partial suspension of payments for a state that does not take measures to reduce the budget deficit⁵.

The Romanian government was and is in permanent contact with European officials, who note the progress made by our country. Moreover, the government pledged its responsibility in the parliament for increases in taxes, fees, measures aimed at reducing the budget deficit⁶.

During the negotiations carried out by the Government of Romania with the representatives of the European Commission, (mainly between July and September 2023), the Romanian authorities were proposed to develop and adopt fiscal measures (in fact, fiscal-budgetary) through which:

- to be able to return to the budget deficit targets;

- to achieve the sustainability of public finances;

- to realize the fiscal-budgetary consolidation of Romania (besides, this is established as a general objective).

As a result, in order to return as quickly as possible to the budget deficit targets, Law no. 296/2023⁷ which aims, among other things, at the efficient use of tax revenues, the promotion of prudent fiscal policies as well as increasing the

⁴ <https://eur-lex.europa.eu/legalcontent/RO/TXT/PDF/?uri=CELEX:52023DC0623&qid=1699102274383>, accessed on 04.09.2023, time 18.00;

⁵The procedure for suspending the payment of funds is complex, laborious, and in the case of suspension of cohesion funds, even the vote of the Council is required, therefore it seems less likely to take such a sanction against Romania, which has cooperated with the Commission in order to reduce the excessive deficit.

⁶Let us bear in mind that the recovery and resilience plan includes requirements to adopt reforms that should be implemented by 2026.

⁷Law no. 296/2023 regarding some fiscal-budgetary measures to ensure the long-term financial sustainability of Romania published in the Official Gazette of Romania no. 977/27.10.2023.

degree of fiscal compliance, fighting against and sanctioning illegal acts, thus strengthening financial-fiscal discipline was adopted. Regarding the prevention and sanctioning of tax evasion (Miheş Cristian, 2019, p. 450) (Popoviciu Laura Roxana, 2014, p. 132) in the context where tax control remains an important lever in order to ensure tax compliance, especially tax compliance, it was assessed that the new measures introduced by Law no. 296/2023 will be able to fill the legislative vacuum created by the repeal of Law no. 12/1990⁸. The new fiscal measures concern taxation on return, on the income of micro-enterprises, taxation on income, mandatory social contributions, tax on high value immovables and movables, VAT (Mirişan Valentin, Mirişan Ligia Valentina, 2019, pp. 188-189).

Starting from January 1, 2024, a minimum turnover tax will be introduced for taxpayers (other than credit institutions and legal entities that carry out activities in the oil and natural gas sectors - for which special rules, provided in the provisions of the law, apply) that records a turnover of over EUR 50,000,000 in the previous year⁹.

From January 1, 2024, the additional tax is predicted for the credit institutions - Romanian legal entities and Romanian branches of credit institutions - foreign legal entities. Thus, the credit institutions will have to pay, in addition to the tax on return, a turnover tax calculated by applying the following quotas to the turnover:

- 2% for the period January 1, 2024 – December 31, 2025 inclusive;
- 1% starting from January 1, 2026¹⁰.

It is considered that this measure of levying a minimum or additional tax on the turnover generates the minimum taxation of some taxpayers who frequently appear with losses in the accounting.

Considering the fact that nowadays the rate of 1% is predicted for the taxation of all taxpayers paying the tax on the income of micro-enterprises, without taking into account their differentiation according to the profit margin, through the package of fiscal measures it was established that starting from January 2024 the tax rates be ¹¹:

- a percentage of 1% for taxable subject (micro-enterprises) that generate revenues that do not exceed EUR 60,000 inclusive (equivalent in lei) and do not generate revenues according to the CAEN codes below;

⁸Law no. 12/1990 regarding the protection of the population against illicit production, trade or provision of services republished in the Official Gazette of Romania no. 121/18.02.2014 and repealed by Law no. 222/2020.

Also, we take into consideration the fact that "the offence" (in this case tax fraud) is the only basis of engaging criminal liability.

⁹Art. 18^1 of Law no. 227/2015 Fiscal Code published in the Official Gazette of Romania no. 688/10.09.2015, with subsequent amendments and additions;

¹⁰Art. 18^2 of Law no. 227/2015 Fiscal Code;

¹¹Art. 51 para. 1 of Law no. 227/2015 Fiscal Code;

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-a percentage of 3% for taxable subject (micro-enterprises) that achieve revenues of over EUR 60,000 (equivalent in lei) or carry out activities, main or secondary, corresponding to the express and limited activities provided by the legislator, namely: software development, software editing, information technology service activities, HoReCa (*catering industry n.t.*) activities, activities legal, medical assistance activities, dental assistance.

Other fiscal measures aim to standardize and align the fiscal facilities enjoyed by natural persons who obtain incomes of the nature of wages or those assimilated to wages in the IT field (for computer programs creating activities), in the construction sector, in the agricultural sector and in the food industry.

For the income from independent activities that will be made in 2024, the possibility of deducting the social health insurance contribution when determining the taxable base is introduced. Also, a new ceiling is regulated in the amount of 60 gross minimum wages per country to which the social health insurance contribution is due.

The current regulation provides a rate of 16% for the taxation of incomes whose source has not been identified. The amendment, which will take effect from January 1, 2024) establishes a quota of 70% applied to income whose source has not been identified¹².

Regarding the VAT, the rate for certain operations is changed. For example, from January 1, 2024, instead of the reduced rate of 5%, the rate of 9% will be charged for the delivery of housing as part of the social policy (adding conditions that these homes must meet at the time of delivery); delivery and installation of photovoltaic panels, solar panels, heat pumps; access to sporting events. Also from January 1, 2024, instead of the reduced rate of 9%, only the standard rate of 19% will be applied for deliveries of goods such as: beer without alcohol, foods with added sugar, etc. Also a facility introduced in 2021 that had in mind tax exemption with the right of deduction for certain deliveries of goods and services performed to hospitals in the public system, as well as to non-profit entities will undergo changes. Thus, from January 1, 2024, the facility can only be applied if the operations are carried out by non-profit entities registered in the Register of religious entities and units for which tax deductions are granted, managed at ANAF level¹³.

Last but not least, Law no. 296/2023 envisages special taxation in the situation where high value immovables or movables are owned. Thus, if the taxable value of a residential building exceeds 2,500.00 lei, a quota of 0.3% will also be applied on the difference between the taxable value of the building (as it

¹²Art. 117 of Law no. 227/2015 Fiscal Code. Through this increased quota, we could consider that a doctrinal principle of taxation is being considered, namely the principle of legitimacy enunciated by the French economist Maurice Allais. See also Diana Cîrmăciu, *Dreptul finanțelor publice*, Editura Universității din Oradea, 2010, p.100.

¹³The National Agency for Fiscal Administration

was established by the competent fiscal body through the tax decision) and the previously indicated ceiling. In the case of a car registered in our country, whose purchase value exceeds 375,000 lei, a quota of 0.3% will be applied on the difference between the purchase price and the mentioned ceiling.

CONCLUSION

Analyzing these changes in terms of the current economic context, of the imperatives of the European Commission, we can say that we needed a fiscal reform. All the problems, the legislative deficiencies definitely have an impact on the collection of tax revenues, make it difficult to fight tax evasion, voluntary compliance with the payment of taxes. Even if the presented fiscal measures will enter into force from 2024, there are opinions that claim that the real fiscal reform will begin in Romania in 2025, with the governors already preparing substantial measures to support economic development, job creation and the dynamism of the labor market (Teaca Mihaela, Mihăilă Carmen Oana, 2013, p. 200), attracting investments. Let's not forget that in the near future resources must also be secured for the effects that the law on general pensions and the single salary law will have.

It remains to be seen in the coming period how much the newly adopted package of fiscal measures will contribute to reducing the budget deficit, but we will expect additional measures to reach the threshold of the deficit below 3% of GDP.

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