ACCOUNTING MECHANISMS USED IN PREVENTING AND COMBATING TAX EVASION

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Abstract: *This paper brings to the fore tax evasion, a popular topic much debated by the literature and of great practical concern. At the same time, it brings in relation to tax evasion, accounting, which has their main to provide useful information to stakeholders in making economic decisions and provide a general framework for the responsibility of the entity. Although the accounting information is not in itself a sign of potential tax evasion because only a complete, logical and systematic documentation regarding the observance of the accounting legislation and policies it can generate the necessary indications to instrument the evasion phenomenon. The main objective of this research is to present the main accounting mechanisms used in preventing and combating tax evasion in Romania. The research methods used are descriptive analysis of the principal regulations and studies in the field of accounting and tax evasion. The conclusions of the study show that financial statements, financial statements, audit and fiscal control are essential mechanisms of preventing and combating tax evasion.*

Keywords: *tax evasion, Romania, accounting information, accounting mechanisms, prevention*

Introduction

The concept of fiscale evasion has been a permanent concern of specialists in the field of fiscalities, being a widely discussed topic in the literature in most developed countries (Jackson & Milliron, 1986; Kinsey, 1988; Long & Swingen, 1991; Cuccia, 1994; Andreoni, Erard & Feinstein, 1998; Richardson & Sawyer, 2001).

Tax evasion is a concept on which there are several points of view, the literature offers multiple interpretations in this regard, but in general, the idea is accepted that tax evasion consists in evading taxation or fulfilling the obligation to pay taxes or fees established by law.

One of the defined concepts is tax evasion, which can be the totality of licit or illicit prosecutors with the help of whom, who can provide support, in whole or in part, their taxable matter must be established by tax laws (Saguna and Tutungiu, 1995: 20).

In another approach to the concept of tax evasion, M. Duverger, appreciated that this phenomenon designates all the manifestations of tax evasion (Hoanţă, 1997: 218), thus there is tax evasion in the proper sense of the term, when the one who would he has to pay the tax, he does not pay it, without his obligation being passed on to a third party (Corduneanu, 1998: 347).

In Romania, in order to combat tax evasion, Law no. 87/1994 (currently repealed), which has the significance of the first regulation in the period of Romania's transition to a market economy and defines tax evasion as evasion by any means, in whole or in part, from the payment of taxes, duties and other amounts due to the state budget, local budgets, state social insurance budget and special extra-budgetary funds, by Romanian or foreign individuals and legal entities, called taxpayers.

In order to establish measures to prevent and combat tax evasion offences and related offences, legislative amendments have been made, by adopting Law no. 241/2005. By the law

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adopted in this field, tax evasion was not defined in another form compared to the old legislative provision, but it has known a new regulation and the notions of the consolidated general budget, taxpayer, legal documents, standardized forms with special regime used have been defined, in the fiscal field, fiscal obligations, fictitious operation, competent bodies, for a better and clear legislative interpretation of the phenomenon of tax evasion.

Compared to Law no. 87/1994 for combating tax evasion, Law no. Regulation (EC) No 241/2005 provides for four essential elements: it establishes measures to prevent tax evasion, establishes new sanctions called offences in connection with tax evasion offences, criminalizes several acts as dangerous offences and defines the terms used in law to be applied with a view to higher accuracy.

Regardless of how this phenomenon is defined from a legislative point of view, tax evasion represents, in the last resort, the non-fulfilment by the taxpayers of the fiscal obligations, due to the state budget.

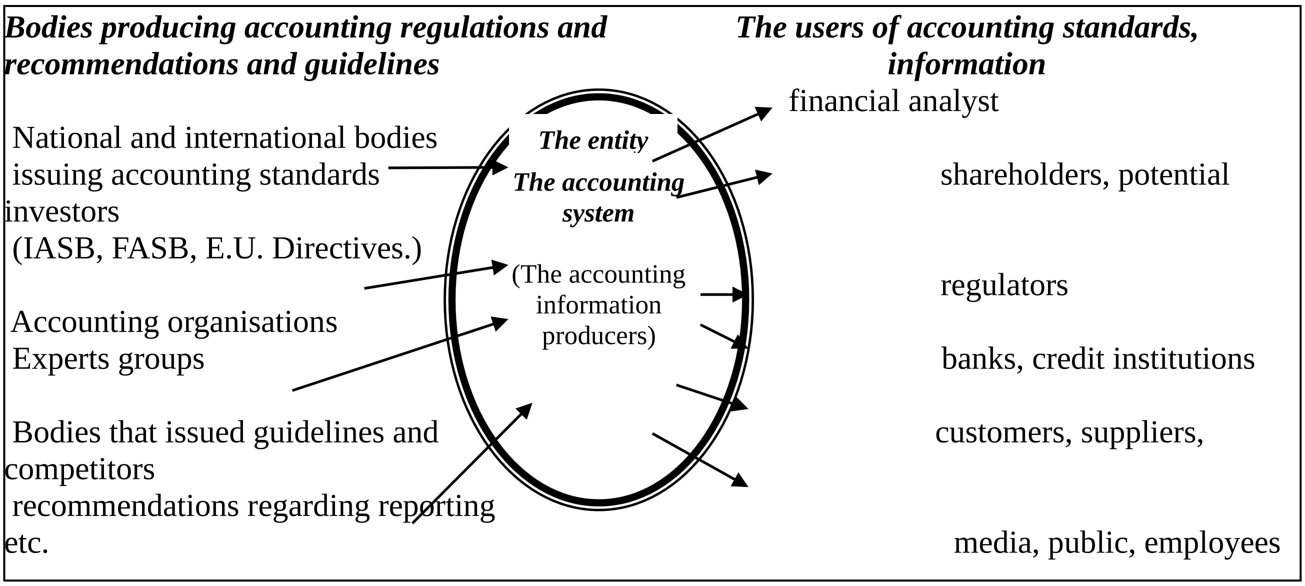
The main objective of this research is to bring to the fore the main accounting mechanisms that can play an essential role in preventing and combating tax evasion. In achieving this objective, we used the descriptive analysis of the main regulations and accounting and fiscal research that deals with the relationship between accounting and tax evasion.

Accounting - social game and means of information

Accounting information can be used as an accounting mechanism to combat tax evasion. Accounting information is the primary information that could contain clues about the occurrence of tax evasion.

In order to fulfil its responsibilities, entities, through financial and non-financial reporting, shall provide useful information to stakeholders in economic decision-making and provide a general framework for the entity's liability: The purpose of the financial statements is to provide information about the financial position, financial performance and changes in the financial position of an entity; this information is useful to a wide range of users in making economic decisions (IFRS, 2007).

Financial accounting is thus seen as a social game in which the actors are the entities, producers of accounting information and users of accounting information, and the directors of this social game are the bodies that issue accounting regulations and standards, recommendations and guidelines on these reports (Figure 1)



National regulators (OMFP 1802/2014)

Figure 1. Accounting seen as a social game
Adopted after Schaltegger & Burritt, 2005: 164

The information provided by the accounting is the primary source of documentation in order to identify the methods of committing tax evasion. It also provides clues as to a possible evasionist method or scheme. However, the accounting information is not in itself a sign of potential tax evasion because only a complete, logical and systematic documentation regarding the observance of the accounting legislation and policies can generate the necessary indications for the instrumentation of the evasion phenomenon. In order to be relevant, credible and comparative, the information presented in tax returns must be made in accordance with accounting and tax principles and rules (Danescu et al., 2012).

Accounting information has a decisive role in detecting, quantifying and proving tax evasion. In this sense, the accounting information ensures: • accessibility to the possibility of identifying tax evasion; • the direct link with the primary document (s) that “certifies” the production (or the intention to produce a) the tax evasion; • verification of compliance with accounting principles; • quantification of the tax evasion produced; • early reporting on the creation of future tax evasion conditions (Dinga E., 2008)

The control bodies empowered in combating tax evasion may use the accounting information from the databases of the National Agency for Fiscal Administration to verify the inconsistencies between the declared situation and the actual state of affairs.

In Romania, the leading accounting mechanisms for preventing and combating tax evasion from their perspective are tax returns, financial statements, financial audit, use of electronic fiscal cash registers, fiscal control. In the following, we will present each mechanism separately.

Fiscal statements - accounting mechanism for preventing and combating tax evasion

In Romania, tax returns are generated based on accounting information, and they are in most cases generated from accounting software.

The main tax returns that must be generated and reported by legal entities to the National Agency for Fiscal Administration and which must also be verified in order to obtain information by the control bodies empowered to combat tax evasion, are the following:

- Fiscal Statement (300) "Value added tax return" is filled in by the taxable persons registered for VAT purposes according to OPANAF no. 591/2017, starting with 01.01.2017, for the declaration of fiscal obligations and is submitted to the competent fiscal body, monthly, quarterly, half-yearly or annually, as the case may be;
- Fiscal Statement (390) “Recapitulative declaration regarding intra-community deliveries/acquisitions/services” which is submitted by the economic agent to the competent fiscal body, monthly, regarding the declaration of intra-community transactions performed and the payment of VAT related to them;
- Fiscal Statement (394) “Informative declaration regarding the deliveries/services and acquisitions made on the national territory” submitted by the economic agent to the competent fiscal body which includes all taxable operations with a rate of 9% or 19%, performed on the national territory, with other persons taxable items registered for VAT purposes in Romania, for which invoices have been issued, including invoices issued for advances and transactions with non-deductible VAT;
- Fiscal Statement (100) “Declaration regarding the payment obligations to the state budget” which is submitted by the economic agent to the competent fiscal body and which includes the profit/income tax, excise duties and other payment obligations;

- Fiscal Statement (112) “Declarations on the obligations to pay social contributions, which is submitted by legal persons who have the status of employers, to the competent tax authority and which includes the income tax on salaries and social contributions due;
- Fiscal records submitted by legal entities to the tax authority, which results in the payment of tax obligations due to the consolidated state budget.

At the level of the European Union, a statistical system has been created and developed for collecting information directly from companies belonging to the Community space and carrying out trade activities with entities from the Member States of the European Union, a system called "Intrastat" and based on regulations, applied in all Community countries. At the same time, the control of the movement of goods in the Community is carried out through the electronic system VIES (VAT International Exchange System), which allows the Member States to exchange information and multilateral controls in order to avoid tax fraud in the field of value-added tax. The VIES electronic system ensures the exchange of information with the Member States of the European Union on value-added tax.

This system created an online database for determining the Member States' contribution to the Community budget, which includes all VAT payers in the Member States. The collection of VAT is thus much more transparent because electronic monitoring of its collection is ensured. The amount of VAT in a country is determined by the contribution of that country to the budget of the European Union. The two systems were also implemented by Romania as a member state of the European Union and represent a mechanism in combating tax evasion in the field of value-added tax.

Tax situations - accounting mechanism for preventing and combating tax evasion

The primary reporting document of the Romanian companies represents the annual financial statements prepared by the entities, according to the Order of the Minister of Public Finance no. 3781 / 23.12.2019 on the main aspects related to the preparation and submission of annual financial statements and annual accounting reports of economic operators to the territorial units of the Ministry of Public Finance, as well as for amending and supplementing accounting regulations, which have the following components:

- F10 - The balance sheet
- F20 - Profit and loss account
- F30 - Informative data
- F40 - Situation of fixed assets

According to art. 185 of Law no. 31/1990, republished, the board of directors, respectively the directorate, is obliged to submit to the territorial units of the Ministry of Public Finance, in paper format and electronic format or only in electronic form on the portal www.e-guvernare.ro, having attached an extended electronic signature, annual financial statements, their report, auditors 'report or financial auditors' report, as appropriate. The indicators provided in the content of the Annual Financial Statements represent essential elements for the verification and fiscal control exercised by the fiscal bodies in order to prevent and combat tax evasion.

Financial audit - accounting mechanism for preventing and combating tax evasion

The audit, in general, represents the professional examination of some information in order to express a responsible and independent opinion, by reporting to a criterion (standard, norm) of quality. The examination performed by a competent and independent professional accountant on the financial statements of an entity, in order to express a reasoned opinion on the accurate, precise and complete picture of the financial position and statement and the results (performances) obtained by it is the financial audit. The financial audit is defined by the American Accounting Association as “a systematic process of obtaining and objectively evaluating statements about economic actions and events, in order to assess the degree of compliance of those statements with pre-established criteria, as well as the communication of results to interested users ”(Tiron, 2009: 29). This definition is considered by many researchers to be the most complete and unanimously recognized definition of the financial audit. According to American researchers Arens and Loebbecke (Arens & Loebbecke, 2003), financial audit consists of collecting and evaluating information in order to determine and report the level of compliance of information with a set of predetermined criteria. Oprean et. all (Oprean, 2007: 103) provides a definition close to that proposed by Arens and Loebbecke: "Financial audit consists of collecting audit evidence about an entity's financial statements and using that evidence to assess their compliance with pre-established criteria." Another way of control exercised especially in order to prevent fraud, but also tax evasion is the audit which can be internal and external. The internal audit also contains the financial-accounting audit, the operational audit and the audit of the management of the organizations. From the perspective of audit objectives, there are three other categories of audit: financial attestation audit, performance audit or compliance audit (Morariu A. et al., 2008: 15). The purpose of the financial audit is to express an objective and independent opinion regarding compliance with generally accepted accounting regulations.

The financial audit pursues various objectives, depending on the needs of the company or the audit applicant: • verification of compliance with the legislation • detecting possible frauds • assessing the solvency of a company • proposing measures to achieve the goals of the unit The financial audit can be internal or external, depending on the objectives pursued. The internal financial audit is an internal control and accounting system, designed to anticipate and avoid any risks to which the company is exposed in terms of its operation. The external financial audit can, in turn, be of two types: statutory or contractual and can cover computerized procedures by which the company's accounting, financial exchange operations, accounting of social expenses and compliance with social, legal regulations, tax situation or accounts receivable. Any analysis of the financial audit must refer to its importance in risk management. Risk management at the level of an organization is a complex process in which all members of an organization are involved and which aims to identify those potential events that may affect the organization as well as manage the identified risks in order to provide reasonable assurance to the entity's management. Practising the risk management contributes to better achievement of the organizational objectives, to the understanding not only of the risks but also of their implications, to the avoidance of crises, etc. Risk management is also a key element in the decision-making process or in the structured approach to efficient functioning. The more organizations have the potential to manifest the consequences of certain risks, the more critical the internal audit. In addition to the role of providing objective assurance or added value by streamlining activities, internal audit is also one of the main tools for managing financial-accounting risks, including the risk of fraud.

The internal audit must take into account several main risk factors, such as the existing internal control system and its quality, the competence of managers and the intensity of the pressure exerted on them in terms of achieving objectives and targets, economic status of the entity, changes in the financial-accounting system, the degree of liquidity of the assets, the quality of the IT system, the frequency of audits, compliance with legal regulations of activities, exposure to external risk factors (social, political, environmental, etc.). Strictly related to the financial-accounting risks, the internal audit must consider the identification of the operations to be audited and included in the audit mission, the assessment of the identified risks and the determination of internal control modalities for monitoring each risk category, performing audit tests for controlling existing risks, identifying those internal controls that are not functioning as well as making recommendations on the most appropriate control methods to reduce risks (Vasile E. et al., 2012, p: 9). One of the main objectives of the financial audit is to identify methods to prevent fraud and at the same time tax evasion while verifying compliance within the economic entity. The most crucial financial audit tools used to combat tax evasion are the tools used to control financial resources and which consist of assessing the correctness with which the revenue and expenditure budget is prepared and monitored, verifying financial-accounting documents and how they are recorded in the accounts and verification of the origin of the income and expenditure of the economic entity.

Use of electronic fiscal cash registers - the mechanism for preventing and combating tax evasion

The use of electronic diary cash registers is mandatory for every economic operator, thus contributing to combating tax evasion. Through their use, the receipts of the economic agents are registered, based on which the fiscal obligations due to the consolidated state budget are established. According to GEO 28/1999 - economic operators who collect, in whole or in part, in cash or through the use of credit/debit cards or cash substitutes, the value of goods delivered at retail, as well as the provision of services performed directly to the population, are obliged to use electronic fiscal cash registers. The interconnection of electronic cash registers with the servers of the National Agency for Fiscal Administration (ANAF), provided by the legislation in force, is an accounting mechanism to combat tax evasion.

The connection of the electronic diary cash registers to the ANAF servers provides information about the name of the trader, the location of the identification data of the device. Also, it provides data on daily business operations, thus reducing tax evasion. We consider that the use of electronic diary cash registers connected to the servers of the National Agency for Fiscal Administration is a mechanism to combat tax evasion, implemented for real-time knowledge of the registration of revenues made by the economic agent, which can be verified much easier by to the fiscal control bodies. The implementation of this program also has certain shortcomings, which consist in the impossibility of connecting to the ANAF servers the electronic cash registers belonging to the economic agents that carry out their activity in the areas where there is no possibility to connect to the internet service.

In this sense, the economic agents from these areas are more prone to not registering the revenues obtained by not highlighting them on the cash registers and implicitly to committing the acts of tax evasion.

Fiscal control - the mechanism for preventing and combating tax evasion

Fiscal control is an activity to verify the accuracy and correctness of determining the amount of taxes and duties owed by economic agents to the state budget, by ascertaining the reality of economic operations, giving the possibility to correct this calculation and other deficiencies. Fiscal control is also a means of ascertaining illegal acts and deeds and which aim to restore legality by applying sanctions of a contraventional or criminal nature. At the national level, the fiscal control attributions are assigned to the Regional Fiscal Anti-Fraud Directorate and the Fiscal Inspection, each with a well-defined role and having specific competencies, both subordinated to the National Agency for Fiscal Administration (ANAF). The Regional Directorate for Fiscal Anti-Fraud has responsibilities in the field of identifying and combating the facts of tax evasion. The specificity of the controls carried out consists in the fact that they are unannounced, without the transmission of prior opinions, and without announcing the period to be subject to verifications or the objective of the verification performed. In case of finding any tax deviations, this body only makes estimates of the damage, but the performance of the calculations necessary to establish the damage is the responsibility of the Tax Inspectorate. If there are indications of committing crimes, the anti-fraud inspectors notify the criminal investigation bodies for committing the crime of tax evasion. The fiscal inspection performs the fiscal control by notifying the taxpayer in advance about the date of the verifications, the subject and the verified period. The duties of this body of inspectors are to carry out checks on tax returns filed by the taxpayer, the accuracy and correctness of these statements concerning transactions and implicitly establish the reality of the tax base, compliance or possible violations of tax and accounting legislation, and establishing remedial measures when deviations are found by recalculating the tax base and calculating the accessories, including the application of minor sanctions or notifying the criminal investigation bodies.

Conclusions

This paper brings to the fore tax evasion, a popular topic much debated by the literature and of great practical concern. At the same time, it brings in relation to tax evasion, accounting, which has their main to provide useful information to stakeholders in making economic decisions and provide a general framework for the responsibility of the entity. Although the accounting information is not in itself a sign of potential tax evasion because only a complete, logical and systematic documentation regarding the observance of the accounting legislation and policies it can generate the necessary indications to instrument the evasion phenomenon. The main objective of this research is to present the main accounting mechanisms used in preventing and combating tax evasion in Romania.

In Romania, tax returns are generated based on accounting information, and they are in most cases generated from accounting software. Tax returns such as Form (390), Form (394) and others may be imported sources of information in order to obtain information by the control bodies empowered to combat tax evasion. The indicators provided in the content of the Annual Financial Statements represent essential elements for the verification and fiscal control exercised by the fiscal bodies in order to prevent and combat tax evasion.

The financial audit can be considered useful and efficient only if it can prevent or eliminate deficiencies in optimal time and provide correct information on how to manage the income and expenditure of the economic entity. From our point of view, the economic entities that carry out their activity in the areas where there is no possibility to connect to the internet service and are unable to connect the cash registers to the ANAF servers, to register and declare at short intervals the receipts obtained and carrying out regular fiscal controls, in order to combat the phenomenon of tax evasion. Without the implementation of concrete measures in this regard, the evasion phenomenon will register a growth trend in these areas.

From our point of view, tax control is a way to prevent and at the same time, combat tax evasion. The management of the economic entity, knowing that it can be controlled from a fiscal point of view, will avoid using the methods of committing tax evasion. We consider that through the efficient use of accounting mechanisms to combat tax evasion by the bodies competent in combating the evasion phenomenon and their permanent improvement of the tax evasion level will know a considerable decrease while increasing the revenues allocated to the consolidated state budget.

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