

FISCAL INSPECTION - INSTRUMENT OF TAX ADMINISTRATION

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Abstract: *The ultimate goal of all activities carried out by the fiscal bodies is to increase the collection of budget revenues. One of the activities is fiscal inspection, which will be completed after the accounting operations have been completed, following a risk analysis, with prior approval of the taxpayer. Its main objective is to verify the legality and conformity of tax returns, the correctness and accuracy of tax compliance by taxpayers and, where appropriate, the determination of principal tax obligations. Over the last three years, The National Fiscal Administration Agency has adapted its revenue collection strategy to the current economic reality by increasing the efficiency of its business. The revenue collection effort resulted in annual, increasing revenues, in the light of the reduction in the number of fiscal inspections carried out.*

Keywords: Fiscal inspection, Additional tax obligations, Budget revenue, Fiscal damage, Fiscal debt.

JEL Classification Codes: G32, H11, H21.

1. INTRODUCTION

The submerged economy is, and will always be, a reflection of all the shortcomings and mistakes of a shaky economic system. The scale of tax evasion is the main point of reflection for both politicians and governments in identifying the most effective ways of achieving tax reform without which the entire economic and social system would become inert.

The size of a country's budget depends on the state's ability to impose, collect and verify taxes and duties owed by taxpayers. The control of the state through tax inspection actions becomes a necessity, a means of improving the executive activity.

Starting from the drawing up of the tax risk sheet, the notification to the taxpayer to be checked for tax purposes, the analysis and comparison of accounting documents with the obligations declared to the territorial tax body, the steps of the activity of the fiscal inspection activity in Romania, they are summarized in the first part of the study.

The study also specifies the most common modalities for carrying out a tax inspection, as well as documents that make a tax administrative act more efficient when completing a tax inspection.

The second part of the work shall be analyzed over a period of 3 years, the fiscal inspection activity carried out by the tax administration. Unfortunately, the result of the research shows a downward trend in the additional fiscal obligations set by the fiscal inspection. We have tried to identify the causes that have led to this development and to propose a series of measures to improve and increase the efficiency of fiscal inspection work.



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2. NECESSITY OF FISCAL INSPECTION IN COMBATING FISCAL EVASION

With the development and modernization of the economy and the fiscal obligations owed by the population have evolved, which has required an intensification and diversification of the way in which the establishment, declaration and payment of the latter are verified.

As a result of business development, each economic operation generates a tax element. Taxes and tax duties are going through everything that is an act of trade, accumulation and distribution of resources, and the intersection between the enterprise and the economic-social environment.

Various ways of circumventing and damaging the income of the status have emerged over time, with strong fiscal implications. In all market economy countries there is and is making the presence of tax evasion felt.

About this phenomenon, also known as "economic and financial crime" (National Council of the Magistracy, 2015, p.6), it is stated that it is constantly evolving, as criminals find increasingly sophisticated and complex means to defeat or circumvent legal provisions with incidents in the field, to cover its criminal traces and give legal appearance to the activities carried out, but also to ensure the proceeds of the crime.

Tax evasion is within the meaning of Act nr. 161 of 19 April 2003 on certain measures to ensure transparency in the exercise of public powers, public functions and the business environment, and to prevent and sanction corruption "*wholly or partly evasion of taxation by any means, with the aim of reducing the payment obligations, including taxes, taxes, contributions and other amounts due to the state budget, local budgets, state social security budget and special funds budgets by Romanian and foreign natural and legal persons*".

The analysis of literature has highlighted various forms and effects of tax evasion:

The Organization for Economic Cooperation and Development (OECD,2017, p.6) specifies that tax fraud takes two forms: under-reporting of revenue by abolishing sales and over reporting deductions through false invoicing.

Andreea Mihaela Corîci, (2017, p.149) presents the effects of tax evasion in three categories:

1.Financial Effects:"*If the State budget does not collect the amounts exempt to fall, it is difficult for the State to pay the financial resources necessary for the functioning of the main basic functions of the State*".

2.Social Effects:" *If people notice that other people are breaking the law and nothing happens to them, then every citizen concludes that he has nothing to do with it. So "Increasing tax evasion leads to a considerably reduced budget, government programs cannot be achieved, and disadvantaged social groups can no longer be helped."*

3.Political Effects:" *When a government is in office, it presents a program covering all levels, from social to economic, from political to state. Even if some of the country's citizens do not support the governing program, there is a need for a joint contribution to make the program work."*

The higher the taxpayer's income, tax evasion causes the damage to the state budget even greater and the state through the revenue and expenditure budget, as a tool for achieving socio-economic objectives through various tax subsidies and incentives, is no longer able to support such objectives. The tax consequence is that the activity of economic operators and all taxpayers who are willing to engage in certain social groups is slowed down at national level. The Increase in tax evasion leads to a significantly reduced budget, government programs cannot be achieved and disadvantaged social groups can no longer be helped.

There is a significant relationship between tax, tax rates and tax avoidance and tax evasion (Adebisi and Gbegi, 2013).

The relationship between tax rates and evasion is significant, as tax policy to increase or decrease a tax rate substantially changes evasion.

According to the study by Corina Maria Ene (2010): *In post-revolutionary Romania, taxpayers regard evasion as a true virtue, an attribute of a smart evil that offers the possibility to protect the property and monetary interests of the individual value, regardless of the social status and financial position.*

This makes it compulsory to eliminate or at least reduce tax evasion for any country. The Activity which detects and corrects immediate non-compliance but can also change the future submission of taxpayers, (Lødyland et al, 2019, p.5) is the activity of tax inspection, thus becoming an instrument to combat tax evasion.

It is thus essential to pay taxes and duties at the actual and legal level in the existence and development of a country. If this is not done deliberately or unlawful alternatives are being created which make the level of payment less. There are economic phenomena of fiscal circumvention. It is precisely for the purpose of diminishing these facts that the activity of tax inspection has occurred in order to verify compliance with the legal provisions on the collection of the revenue of the State budget.

Tax inspection is an important tool used by many tax authorities to combine tax compliance with the mechanical benefit in terms of the unpaid payment of revenue that it identifies and recovers (Advani et al., 2019, p.3).

The results suggest that taxpayers who have been subject to tax checks improve their future tax activity, but taxpayers who evade taxes but are not subject to tax inspection are trying to evade payment even further in the future, because their possibility of being detected is reduced (Lødyland et al, 2019, p. 5).

Thus, the tax inspection activity becomes the essential tool for the tax administration to collect state budget revenue to reduce tax evasion by taxpayers who do not comply with the legal provisions on taxes and duties.

3. ORGANIZATION AND DEVELOPMENT OF FISCAL INSPECTIONS IN ROMANIA

Fiscal inspection is a tax tool of the financial system, a component of financial management. A country's economy cannot function, be managed and organized without a system of control, tax inspection by fiscal authorities.

As a result of the tax inspection, in addition to the fact that the state collects its tax revenue correctly and legally, the tax education of payers, which is reflected in voluntary tax compliance, also takes place. Tax inspection activity provides awareness of the wealth of society, the discovery of theft and embezzlement.

The state will, through the legislation, determine the manner that taxes and duties due to the state budget are to be determined, the manner that they are to be declared and paid and the tax bodies empowered to do so. Whether taxpayers, natural or legal persons, liable for tax and tax payments, comply with the relevant rules or not, is a duty of the state to verify.

By Government Decision no. 520 of 24 July 2013, the National Fiscal Administration Agency was set up to ensure: "the administration of taxes, duties, contributions and other budgetary revenue legally given in its competence, the application of customs policy and regulations and the exercise of customs authority tasks, as well, spot and operational control of the prevention, discovery and combating of any acts and deeds which have the effect of tax evasion and tax and customs fraud, as well as of other acts legally committed in its competence".

Within this framework, a number of state institutions, including the activity of tax inspection, have been operating.

Ioana Costea (2017, p. 9) names the tax inspection activity as “announced thematic control applicable to professionals”.

The last tax legislation with regard to tax inspection is Act no. 207/2015 on the Code of tax procedure, which in article 113 specifies:

"Tax Inspection is the activity aimed at verifying the legality and conformity of tax returns, the correctness and accuracy of the fulfillment of obligations in relation to the establishment of tax obligations by the taxpayer/payer, compliance with tax and accounting legislation, verification or establishment, as appropriate, of the tax bases and the related factual situations, establishing differences in principle tax obligations."

In other words, the activity of tax inspection is to verify how tax payers fulfill their obligations.

The guide for tax inspection drawn up in 2017 by The National tax Administration Agency States that “tax inspection shall be carried out on the basis of the principles of independence, uniqueness, autonomy, hierarchy, territoriality and decentralization”

The subjects of the fiscal inspection are on the one hand the state, acting as a collector, and on the other hand persons and entities, irrespective of their organizational form, which have obligations to establish, retain or pay tax obligations under the law.

According to Law No 207/2015 on the Fiscal Procedure Code, the tax inspection bodies have a number of tasks to carry out the tax inspection activity aimed at determining the taxable situation of the payer. Thus, the tax inspection examines the documents contained in the tax file of the taxpayer at the seat of the territorial tax body. A taxpayer's tax representative called the tax representative will be issued from the territorial tax organ containing all the data declared by it during the tax period. Following the movement of the tax inspection team at the taxpayer's seat, there will be a comparison of the data entered in the tax declarations with those contained in the accounts. Tax inspection will verify, analyze and evaluate tax information as to the legality, accuracy and accuracy of the fulfillment of tax obligations under tax and accounting legislation.

Tax inspection bodies have the legal possibility to establish the most accurate situation to be required by information from third parties, different firms or economic partners of the payer. In this respect, consistent or inconsistent fiscal scores of the data declared by both economic partners shall take place. If necessary, the tax inspection bodies may make on-the-spot findings to detect revenue generating situations

In order to clarify and complete the findings, written explanations can be requested from the legal representative of the taxpayer by drawing up the "explanatory note" document.

The purpose of any tax inspection action requires the correct determination of the tax base, the differences in taxes and duties do more or less. Where the situation so requires, the tax inspection shall provide for precautionary measures, will affix seals to the taxpayers` assets, draw up reports of the findings of tax evasion which it submits to the relevant prosecution bodies.

As a procedure to stop the tax inspection activity, the first step is to schedule the tax inspection activity. Thus, following completion of accounting operations (tax declarations, financial statements, tax and tax payments), based on a risk analysis, the tax inspection bodies select the taxpayers to be subject to tax inspection.

Before commencing a tax inspection, the competent state bodies for carrying out a tax inspection will be required to notify in writing by forwarding a tax inspection notice to the taxpayer to be subject to a tax check.

Based on the inspection card and the service order signed by the head of the tax inspection body, tax authorities shall start the action by signing it in the single control register whenever there is an obligation to keep it.

In addition to own-initiative tax inspections carried out by tax authorities on corporate or natural persons (including identified taxpayers with a tax risk associated with transfer pricing), which pose a high tax risk as a result of risk analysis, tax inspections are also carried out following requests from both taxpayers and state-owned persons. Such requests may be requests for the resolution of value added tax settlements with reimbursement notice, requests from other requesting authorities in other Member States for the exchange of information, settlement of complaints and complaints, etc. There are also fiscal checks with thematic topics such as: Tax inspections of economic operators holding a license to organize gambling/engaging in gambling activities, tax inspections of taxpayers to check the fee due by mining license holders, tax inspections of taxpayers trading in used cars.

The fiscal inspection activity can be carried out on a random basis (activity of selective verification of taxable periods, documents and significant transactions), exhaustive (activity of verification of all taxable periods as well as of documents and significant transactions underlying the calculation, highlight and pay-out of tax obligations) or electronically, the newest method of checking the accounts and sources, processed electronically, using methods of analysis, evaluation and testing assisted by specialized it tools.

A single method or more of those listed may be used to consider examining all factual and legal relationships which are relevant to taxation or verifying compliance with other obligations under tax and accounting legislation.

Upon completion of the action, the findings of the tax inspection body, both factually and legally established and the consequences of the tax, shall be recorded in writing in a tax inspection report.

The findings contained in the tax inspection report will be translated into the tax administrative act bearing the name Tax Decision, the measures of which will be binding on the taxpayer under control, within the time limits and conditions set by the tax inspection body.

4. ANALYSIS OF THE FISCAL INSPECTION ACTIVITY IN THE PERIOD 2016-2018

The efficiency of the fiscal inspection work is reflected in the sum of the amounts attracted to the state budget. Following a tax inspection, the tax authorities are collected on the general consolidated budget, additional amounts not declared by taxpayers, differences calculated in addition to the records in the taxpayers` tax records.

The tax inspection may bring additional revenue to the state budget, over the amounts declared and recorded by the taxpayer, in view of the failure to apply the legal provisions correctly.

Table 1 presents the data submitted by The National Agency for Fiscal Administration in the years 2016, 2017 and 2018.

Table 1 *Statistical Results of Fiscal Inspection Activity*

No.	indicators / year	2016	2017	2018
1	Number checks carried out	48.676	41.396	40.952
2	Additional obligations laid down (mill. lei)	11440.10	8211.30	5997.20
3	Decrease of tax loss to legal people (mill. lei)	6700	2700	2875
4	Number of fines imposed	9478	7915	4424

5	Amounts of fines applied (mill. lei)	18.8	21	9.5
6	Confiscation of goods and cash (mill. lei)	9.4	1.6	0.03
7	Number of criminal notices	2466	1981	1408
8	Damage value (mill. lei)	6718.00	2969.80	1345.40
9	Value of insurance measures (mill. lei)	2693.50	2547.70	1296.00

Source: The National Agency for Fiscal Administration, Fiscal Newsletter, 2016, 2017, 2018 and Performance report for 2016, 2017, 2018

Regarding these data provided by the National Fiscal Administration Agency, a decreasing trend is observed, of all indicators highlighting the results of the tax inspection activity.

The number of checks carried out decreased by 14.95 % in 2017 compared to 2016, and in 2018 this decrease continues to reach 15.8 % compared to the reference year 2016.

The amount of the additional tax liability set including tax loss reduced to legal people, it fell by 39.84% in 2017 compared to 2016, and then in 2018 this decrease was 51.09% compared to 2016.

The number of tax inspections carried out by an inspector and the amounts have been centralized and can be observed in table 2.

Table 2 *Number of tax inspections and additional amounts per inspector per year*

		2016	2017	2018
Number of inspections carried out by an inspector on taxpayers` legal entities	Number	6.97	7.18	8.03
Number of inspections performed by an inspector on taxpayers is natural people	Number	16.82	15.69	16.64
Amounts additionally set on an inspector, following tax inspections on taxpayers` legal entities	Euro / inspector	3960246	3068471	2543345
Amounts additionally established on an inspector, following the tax inspections to the contributors of natural people	Euro / inspector	521 900	573 480	606 381

Source: The National Agency for Fiscal Administration, Fiscal Newsletter, 2016, 2017, 2018

If in 2016 a fiscal inspector carried out an average of 23 tax inspections irrespective of the nature of the taxpayer (natural or legal person), in 2017 it fell to less than 23 and then in 2018 it reached almost 25. Against the background of the increase in the number of tax inspections carried out each year, a yearly decrease in the amounts collected in excess of the income collected to the state budget is obtained from the statistical data presented earlier.

Taking into account the number of employees concerned in the course of the fiscal inspection activity in 2046, in 2016, 1.810 in the year 2017 and 1660 in the year 2017 (The National Agency for Fiscal Administration, 2016), a first cause of the fall in the amounts collected as a result of the tax inspection activity, namely the shortage of personnel, is identified.

This staff reduction comes against the background of multiple retirement in recent years, the places which have become vacant have been filled by inexperienced staff in tax inspection work. The Law no. 188/1998 on the Staff Regulations require a certain number of years of experience in the field (three years of chief inspector, five years of senior inspector).

However, although the retirements are made to the maximum degree of superior inspector, the vacancy is usually filled by a senior inspector but who has neither the necessary seniority nor professional experience in the tax inspection.

There have been numerous transfers of staff, of civil servants between various state institutions, but even if the age of civil servant is completed (three years, five years), professional knowledge is significantly lower for an employee who has not worked in the sphere of tax inspection. There are employees of other public institutions that are also civil servants and as a result of transfers, have reached the activity of tax inspection at a higher (maximum) level due to their working age, but professional age and preparation in the sphere of tax inspection is almost non-existent.

We notice another cause of poor tax inspection collection: real professional knowledge of tax inspection. Of course, the poor endowment of tax inspection activity, the lack of efficient computers, the lack of access to various information bases, are key factors in the efficiency of a business. From this point of view, things have started to be corrected again, as there are real opportunities for replacing the data processing base at the moment.

Another very important cause of the fall in tax collection due to tax inspections is that tax legislation is constantly changing, with a large amount of tax inspectors' knowledge on the one hand, on the other hand, it allows tax loopholes that represent tax havens for taxpayers. We take for example the basic legislative act of the tax inspection activity: Law 207/2015 on the Fiscal Procedure Code, published in the Official Gazette of Romania, Part I, No 547 of 23 July 2015. It has been implemented since its inception July 2015 and until 2019 by no less than 33 amendments and additions through various legislative acts.

On the Fiscal Code, Law 227/2015, published in the Official Gazette of Romania, Part I, no. 688 of 10 September 2015, by 2019 there were 73 amendments and additions.

As we have presented before, the selection of taxpayers who will be subject to a tax inspection is the result of a risk analysis. Due to an insufficient number of selection indicators, this risk analysis is ineffective and is still a cause of the reduced additional tax burden of the tax inspection activity.

A growing trend in the number of registered taxpayers in the period under review can be seen from table 3.

Table 3 Number of registered taxpayers

	2016	2017	2018
TOTAL	1937287	1995255	2060468
Independent activities	625.841	636.047	644.916
Legal entities	1311446	1359208	1415552

Source: The National Agency for Fiscal Administration, Fiscal Newsletter, 2016, 2017, 2018

Thus, the increasing number of newly established taxpayers against the background of the reduction in staff in tax administrations negatively influences the activity of tax inspection. Some of these cases have been summarized by the Romanian Court of Auditors through the performance audit Report, Concluded at The National tax Administration Agency in 2017, p.19, in the so-called "*vulnerabilities on tax inspection*".

These vulnerabilities relate to the exercise of a low (internal) management control, unable to detect failures in the activity of exploiting the results of tax control and revenue collection, which results in poor management in taking all necessary measures to correct the deviations and sanctioning the responsible staff, where appropriate.

At the same time, the non-application of precautionary measures by inspection bodies in all cases where this would have been required makes it significantly difficult for enforcement bodies to carry out their duties. There were detected situations of delayed recovery of tax inspection acts, which creates the risk of the assets being transferred by the verified taxpayers until the

enforcement proceedings have been implemented. In some situations where precautionary measures were ordered, the tax inspection bodies did not identify the property they frozen in the minutes, which also significantly reduced the effectiveness of the measure. There is still insufficient regulation of selection criteria for programming for tax inspection of taxpayers to improve the collection of state revenues.

4. CONCLUSIONS

In order to improve the work and reduce the shortcomings noted, the work on fiscal inspections must take a series of measures that will lead to the efficiency of the activity performed.

A shortage of personnel mainly and special training, as the first causes of the inefficiency of the tax inspection activity could be removed by a legislative proposal amending the State of the public official by which the employment of a tax inspection activity is performed only on the basis of at least three years experience the scope of the accounting for drawing up and verifying the compulsory financial statements to natural or legal persons. Such a change, coupled with the professional training carried out at the level of public institutions, would have the desired effect at the highest level by calling into question the complex or most common areas for a uniform application of tax law.

Allocating more funds to technical investments and computer equipment (operating systems software) is the real way to modernize and streamline any activity. This information technology equipment must also be implemented for taxpayers. From the experience of other Member States, the increase in tax collection is directly proportional to the implementation of electronic systems for declaring and paying taxes and duties. Also, the electronic transmission of data by taxpayers ensures that the database is improved across Financial Administrations, giving a much clearer and more accurate picture about carried out activity.

More effective tax inspection can take place by increasing electronic control, in the sense of a classic tax inspection. This saves human and material resources, so assigned staff can only work more efficiently where strictly necessary. Establishing partnerships with other State institutions on access to their database, possibly a common database, would certainly facilitate the work of tax inspection, and there is no need to draw up requests for information, whose answer is very late (months). A high level of information can certainly also lead to better analysis of the risk analyzes carried out by the tax inspection.

A greater number of selection criteria implemented in the taxpayer selection program to be subject to a tax inspection, it ensures a higher degree of accuracy. It eliminates economic operators that do not require a tax verification as they consistently meet their tax obligations and do not show inappropriate fiscal behavior.

Regarding the bushy tax legislation, the lack of legal provisions to limit the number of annual changes and supplements makes it impossible to diminish this issue.

It is true that in the course of economic development, sometimes new economic phenomena also occur the need for legislative changes, but this must be done following a very thorough study of the coordination of the laws in force, so that there is no possibility of tax "loopholes" that facilitate circumvention of the law.

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