

TAX FRAUD IN THE CURRENT STAGE

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Abstract

Tax fraud has a large scale at local, regional or transnational level and it occupies a central place in the sphere of economic and financial crime.

The illicit activities, components of the underground economy, are those forms of income-producing crime by circumventing the state's fiscal control of essentially licit activities or the legal obtaining of funds from tax sources.

Key words: tax fraud, the underground economy, taxes and legal fees, custom duties.

JEL Classification: H20, H23, H26

Introduction

At the end of the second millennium and its beginning, marked by the era of economic and social progress, we witness a new stage of development in the history of mankind, characterized by the process of extending cross-border relations of economic, political and socio-cultural nature. In this way, at the planetary level, a network of all communities, even if they are located thousands of kilometers away, brings together countries, banks, financial institutions, etc. The phenomenon of globalization of human-community relations has generated and raises further controversy between economic analysts, sociologists, political scientists and historians.

In this context, tax fraud has a special scale at local, regional or transnational, occupying a central place in the sphere of economic and financial crime. Illicit activities, components of the underground economy, are those forms of income-producing crime (drug trafficking, cars, other acts of violence, thefts, etc.), by circumventing the state's fiscal control of essentially licit activities (import of goods, trade, production of goods, etc.) or the legal obtaining of funds from tax sources (eg repayments or unlawful compensation of value added tax). The last two components of the underground economy are in fact the forms of tax fraud.

The fiscal fraud is the "set of practices aimed at circumventing all or part of the state tax", but only partly includes the elements of the mechanisms by which tax contributions are affected.

Therefore we can define tax fraud as the entirety of the illegal actions carried out in order to evade the taxpayers from the payment of taxes, taxes and contributions owed to the state or to obtain illegal sums of money from such tax sources.

Components of the taxpayer's obligation towards state or local budgets may be diverse: corporate tax, value added tax, excise duties, customs duties and so on. In order to circumvent the criminal law by means of various illicit methods of payment of these obligations, the criminal tax offense was criminalized in the Romanian criminal law, which stipulates that the budgets that may be prejudiced are: state budget, local budget, special fund budgets and health insurance.

The terminology used is quite plausible and the scope of the illegalities in this area as well. That is why it is opted for the use of the term tax fraud and the inclusion in its sphere of the customs regime. In fact, in France where the term used in the Romanian language of "evasion" originates, it is rather equivalent to the use by taxpayers of legal facilities or gaps in legislation to avoid paying taxes and duties.

The authors of tax fraud can act in a singular, unorganized manner in the case of acts that can be framed in small criminality or organized - when the authors are associated with the purpose of committing large frauds that can seriously affect the state budget.

In the first situation, the illegal acts are incidental, short-term, while the criminal activities of the second category are characterized by stability in time, prepared with great rigor and aiming at

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obtaining great gains at the state's end. In many cases, large fraudsters networks operate internationally, juggling freight import / export in terms of quantity and price, and also benefiting from the difficulty of control institutions in obtaining data on such operations from another country. One such example is a case handled by the Romanian Police concerning massive imports of flowers in the Netherlands, at much underestimated prices, when the Romanian authorities were unable to cooperate effectively with the Dutch authorities, the latter arguing that everything is ok to them the exporter, a Dutch company, had correctly registered its revenue, although it had contributed, by certifying false data on the copy of the invoice given to the Romanian party, to the prejudice of the Romanian State.

Below are some ways of committing tax fraud: the use of phantom companies, customs offenses, VAT and other tax evasion.

a) Use of phantom companies

We consider it appropriate to analyze the “ghost companies” in the present communication as such entities are characterized by most of the underground economy analysts as “the great actors of tax evasion, smuggling and fraudulent bankruptcy and other crimes considered being dirty money”.

Since firms considered “ghost” have an important role to play in organized crime acting in the tax sphere, it is necessary first of all to clarify this term. In a narrow sense, a phantom company is defined as a fictitious entity that does not have a registered office, patrimony or real representatives, and is not constituted and registered under the procedure used for commercial companies, although on its behalf acts are issued and revenue-generating business activities are carried out.

In a broad sense, the sphere of ghost companies includes other legally established companies, registered at the merchant registration authority, with actual headquarters, but where they never work, and whose representatives (associates and/or administrators), as a rule foreign citizens who immediately left the country after the establishment of the company, left the founding documents and the stamps of others, unrelated to the company, to carry on their behalf revenue-generating business activities in order to evade taxes and legal fees.

Sometimes in the category of phantom companies are also included companies that have legally carried on and registered their activity up to a certain point in time and were transferred to persons who disappeared immediately after the company's takeover, the act of transferring the debt to the State or creditors.

There are also cases when some people who, using false IDs, set up or take over companies and generally commit acts of deception to the detriment of other firms.

Ghost companies are the source of many tax fraud operations both in economically developed countries and in those whose market economy is undergoing consolidation.

The concrete ways in which phantom companies are used are:

- goods are imported through a phantom company, at undervalued prices, much lower than those on the market, in order to pay modest customs duties, which is imposed at a stage following the sale to another spot company, with the application of a large commercial surcharge to reach the real price, which generates large charges, corresponding to the large price difference. Import is through a company, whose administrators does not exist or will never be found, and the registered office is fictitious, no one will pay these taxes and taxes very high. In the next step, the spot company will deliver commodities with a small commercial addition, which will generate minimum tax obligations that will be paid “conscientiously” by those who actually control both companies. It goes without saying that who is faced with import control and other operations until delivery at the real price. The process is used by well-organized networks that sell large quantities of goods.
- the quantities of goods from smuggling or domestic clandestine production are justified;
- in some cases public procurement is used when a contracting authority interposes between a real supplier and the public institution such a firm for the purchase of goods for the purpose of artificially increasing the markup, well above the actual supplier's delivery price.
- used in TVA repayment cases.

b) Customs offenses

In general, fraud in this area is amplified at level high customs duties or in the case of import protection measures. The ways in which customs duties are being circumvented are:

- smuggling which is consisting in the introduction of goods across the state border through places other than customs;
- importing goods at prices that are far below the market value, in agreement with the exporters;
- presentation of false documents concerning the quantities of goods, their quality and prices, or other indications leading to the application of a favorable customs procedure;
- hiding of goods in secret compartments of means of transport

Customs fraud occurs with great damage to the state, since in addition to paying customs duties in most countries other taxes, especially value added tax and consumption taxes, are payable at the time of customs clearance.

c) Unlawfulness of value added tax (VAT)

Value Added Tax is one of the main sources of the state budget. This tax is the subject of many tax fraud operations, its exposure being motivated by the significant amounts that are collected, the large number of payers, and the particularities of how it is calculated and highlighted:

- fictitious purchases of over-priced goods at the end of the reporting period in order to increase the deductible component of this tax in order to balance between the deductible and the collected amounts, followed by the cancellation of the operation in a new tax period;
- overestimating the value of the exports made or registering fictitious export operations, followed by the VAT refund request;
- the registration of fictitious investments on the basis of documents issued by companies or human investment companies for the purpose of obtaining a refund or VAT compensation.

d) Other tax offenses

- recording of fictitious expenses for diminishing the profit and, implicitly, of the related state tax;
- non-registration, in whole or in part, of income from commercial activities;
- failure to declare sources of income, especially for people who regularly earn income from multiple sources;
- the non-declaration of the tax generating object.

The Size of the Money Laundering Phenomenon

The interest of organized crime representatives is that, as a result of money laundering, funds from illegal sources can be used without being suspected by the authorities. This operation creates an appearance of legality, which is the immediate purpose of the holders of such funds. Sometimes some revenue hide techniques are used, even if they are legally obtained. The source of financial funds may be hidden when the interest of a person or company impose on the public, competitors, social or other institutions for reasons such as: maintaining confidentiality or privacy, maintaining reputation and competitive advantage, discouraging requests charities etc., which do not involve a criminal behavior.

Money laundering as an illegal operation is closely linked to drug trafficking and other forms of organized crime, terrorism, tax evasion or white-collar crime, which also give the specific purpose of the pursued goal, namely:

- the necessity of investing in the legal economy the huge incomes obtained of illicit drug trafficking;
- creating the necessary funds for the financing of terrorist operations;
- the justification of revenue obtained as a result of tax evasion and fraud, in investments;
- masking the amounts used for bribing government officials in order to obtain profitable contracts;
- secret funding of political parties;
- to hide the sources of financial funds for commissions that are paid for winning auctions or to mask the profits of share holders within a company;
- masking bank lending to corporate objectives unauthorized or transferring funds in the personal account.

It is impossible to calculate exactly how much money is washed worldwide every year. Those concerned with the estimation of the money laundering phenomenon have as a point of reference

an estimate, namely the net criminal product, calculated mainly on the basis of the revenues obtained from the drug trafficking.

The International Monetary Fund and the International Investment Bank consider that it is inconceivable a direct estimate of the monetary flow of drug trafficking worldwide, based on bank statistics and the balance of payments. Accounting disparities between different countries can be analyzed, but there is no possibility of destroying financial funds resulting from illegal drug trafficking and arms trafficking or other significant criminal activities. It is assumed, however, that the money supply resulting from drug trafficking accounts for less than 50% of the total financial funds worldwide.

Regardless of the exact amounts that are recycled annually by various methods, the money laundering phenomenon is quite large and present in all countries of the world, regardless of the level of economic development and the existing political system. This stems from the permanent need to use illegally obtained funds. In a case investigated by the London-based Combating Crime Unit, it emerged that a Caribbean bank was offered \$ 9 million by an unidentified financial group to accept a \$ 300 million deposit. Banking officials were tempted by the offer and accepted the “deal”, but the government authorities discovered it and suspended the bank’s license.

Money Laundering Methods

- *Money laundering in financial institutions*

Each financial institution, including banks, insurance and lending agencies, currency exchange offices and casinos, is a potential target for criminal money laundering organizations. Almost any type of service provided by financial institutions is a potential means for money laundering.

- The refining of illicit money is the process of converting small banknotes into large banknotes. Refinement applies especially where there is a large volume of small money, such as drug sale and purchase operations. The consumer pays the drugs in small value banknotes in relation to the purchased dose.

- Opening of bank accounts under false names is done with the consent of certain banks that do not claim their customers' identification data, thus facilitating the money laundering process.

- Hiring safes to hide values obtained with money from illicit sources is a method of concealing the criminal product.

- Facilitating financial transfers by banks or other financial institutions in such a way that illicit money reaches its destination.

- Deposit in bank accounts or transactions involving amounts of offenses without such transactions being reported.

- *Use of casinos and gambling*

Casinos are ideal places for criminals who visit them as it offers the opportunity to cheat on unskilled players and to wash their dirty money.

Also in casinos those interested can change their “street money” by buying gaming chips, after which the refining operation ends by changing the chips at home, with the end of the game, in large banknotes or casino checks.

- *Mixing money with those obtained from legal business*

The illicit funds mixed with cash money legal business products are perfectly masked, especially when declared as taxable income. Tax is the price paid by money launderers to enjoy the product of their offenses.

- *Acquisitions of secret actions*

Financial investments for the purchase of shares for the purpose of money laundering are usually made through intermediaries. Thus, in the share register of some companies there is only the name of the intermediary and not the real owner. As intermediaries, individuals, lawyers' offices or bankers are used, who often do not even know the real owners for whom they brokered.

- *Purchase of art objects or valuable collections*

Due to the fact that those who purchase objects of art or collections of higher value are protected by anonymity for obvious reasons, the owners of such values are also considered owners. Often the transfers made with such objects hide a money laundering operation. The benefit achieved can justify a high standard of living secured from rogue money.

- *The process of the fake process*

The technique is considered very simple and especially safe. The only downside is that the trials are generally lengthy, but the inconvenience can be avoided by resorting to the arbitration procedure, very widespread in international trade.

Effects of Money Laundering Phenomenon

The most direct consequence of money laundering is the possibility of the primary interest of the representatives of the criminal economy to dispose of the proceeds of the offenses they commit, without being held accountable for their illicit activities.

Another negative effect of money laundering is the unfair competition of companies anchored in the legal economy by criminal organizations.

Conclusions

The growth of underground economy and money laundering affects the force of the legal financial community. The huge sums of money subjected to hygiene have an overwhelming influence on corruption.

Money laundering can affect the economic and political system to such an extent that a country can be used only to enrich such a category of people.

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