



QUANTITATIVE EVALUATION OF TAXPAYERS' BEHAVIOUR OF FISCAL NON-COMPLIANCE MANIFESTED BY TAX EVASION

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Rezumat

Existența, funcționarea și perspectivele de dezvoltare economico-socială ale unui stat sunt legate de sistemul fiscal, de performanțele acestuia și de cultura fiscală a contribuabililor, formată în decursul istoriei fiscale a statului. Starea actuală a unui stat contemporan este dependentă de istoria propriului sistem fiscal, de modul cum acesta a fost conceput, de modul cum a fost adaptat etapelor progresive de dezvoltare ale statului și de modul cum a reușit să inducă, dincolo de sentimentul constrângerii, o anumită educație fiscală a contribuabilului care să-i creeze acestuia sentimentul valorizării eficiente a contribuțiilor sale prin impozite. În această lucrare încercăm să evaluăm cantitativ performanțele sistemului fiscal românesc din perspectiva

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comportamentului de neconformare fiscală al contribuabililor, manifestat prin evaziune fiscală.

Abstract

The existence, operation and perspectives of economic-social development of a country are linked to its fiscal system, to its performance and to the fiscal culture of the taxpayers, which formed during the fiscal history of that state. The current state of a contemporary state depends on the history of its fiscal system, on the way in which it has been conceived, on the way it has been adapted to the progressive stages of state development and to the way in which it managed to induce, beyond the feeling of constraint, the fiscal education of the taxpayers supporting the feeling of an efficient utilisation of the levied contributions. In this paper we are trying to make a quantitative evaluation of the Romanian fiscal system in terms of taxpayer's behaviour of fiscal non-compliance manifested by tax evasion.

Keywords: fiscal system, taxpayers, tax evasion, fiscal behaviour, fiscal authority.

JEL Classification: H, H2, H22, H26, H3, H30

In order to depict the evolution of taxpayers' fiscal behaviour manifested by tax evasion and of the strategies of control implemented by the fiscal authority, we will make an empiric analysis on the basis of the performance reports of the National Agency of Fiscal Administration¹

¹ *The National Agency for Fiscal Administration (ANAF) was established on October 1st, 2003 under the Ministry of Public Finances, through the Governmental Ordinance 86/2003, as special body of the central public administration. As of January 2004, it became operational acquiring the quality of public institution with own legal personality, by the detachment from the Ministry of Public Finances of the directorates assigned with the administration of state revenues.*

Other bodies established and operating under ANAF are the Financial Guard, the National Customs Authority, the general directorates of the county public finances and the General Directorate of the Public finances of Bucharest Municipality. Special body of the central public administration, ANAF administrates the revenues to the budget by

(ANAF) and of own calculations. We will also monitor the level of voluntary compliance upon tax declaration and levying, the dynamics and dimensions of tax evasion, the frequency of the identified tax evasion and the size of the inflicted penalties. The results will be used to analyse possible relations of causality between the dynamics of the indicators and the possible factors which shaped this dynamics.

The period of reference of the empiric analysis is 2004-2011, period which actually starts with the establishment and operation of ANAF (October 1, 2003). The performance reports of ANAF, as sources of public data on its activity and results, were not published yearly and displayed frequent changes of structure, which made it difficult to identify the data used for the period of reference and this required own quantifications and calculations in order to identify some of the indicators. As of 2010, ANAF rectified this deficiency of communication and supply of statistic data on own activity by publishing a quarterly report of activity and of a standardized annual Performance Report which ensured the transparency and continuity of the deployed activity and of its outcomes.

We will **first** refer to a general picture of ANAF activity and results showing the general level of compliance in tax declaration and payment, of the intensity of the control activity, of the number of cases of tax evasion and on the frequency of tax evasion. We will also quantify the financial dimension of the additional revenue resulting from the value of the identified tax evasion and from the value of the penalties applied by the fiscal authority for these cases of identified tax evasion.

the administration, collection, fiscal control and development of partnership relations with the taxpayers.

As of January 1st, 2007, when Romania accessed the European Union, the Romanian fiscal administration assured the intra-community exchange of information about the value added tax and the excises, as well as about the adaptation of the process of administration, collection and control, so that it fits the requirements for the fiscal administrations of the EU member states.

Table 1

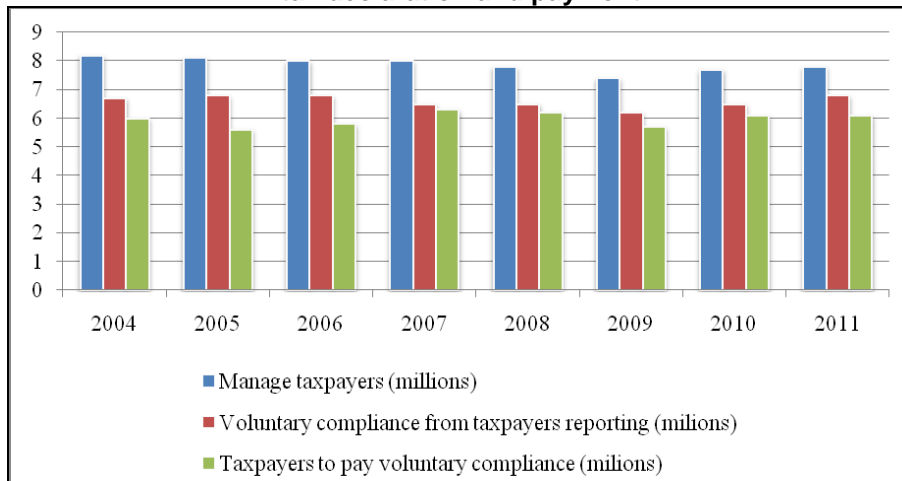
Evolution of the number of taxpayers registered with ANAF and of the voluntary compliance and non-compliance in Romania in 2004 – 2011

Indicator	2004	2005	2006	2007	2008	2009	2010	2011
Voluntary compliance - declaration - %	82,1	84,2	84,5	80,7	83,2	83,9	84,6	87,3
Voluntary compliance - payment%	73,0	69,2	72,1	7,9	79,4	77,4	78,9	77,8
Voluntary noncompliance - declaration - %	17,9	15,8	15,5	19,3	16,8	14,1	15,4	12,7
Voluntary noncompliance - payment%	27,0	30,8	27,9	21,0	20,6	22,6	21,1	22,2
Taxpayers registered with ANAF (millions)	8,2	8,1	8,0	8,0	7,8	7,4	7,7	7,8
Taxpayers with voluntary compliance at declaration (millions)	6,7	6,8	6,8	6,5	6,5	6,2	6,5	6,8
Taxpayers with voluntary compliance at payment (millions)	6,0	5,6	5,8	6,3	6,2	5,7	6,1	6,1
Taxpayers with voluntary noncompliance at declaration (millions)	1,5	1,3	1,2	1,5	1,3	1,2	1,2	1,0
Taxpayers with voluntary noncompliance at payment (millions)	2,2	2,5	2,2	1,7	1,6	1,7	1,6	1,7

Source: ANAF Performance Reports, ANAF press releases, own calculations of the authors

The **voluntary compliance at declaration and payment**, analysed in correlation with the total number of taxpayers managed by ANAF shows a favourable increasing trend. This evolution is the result of a rather large mass of taxpayers honest and disciplined in terms of tax declaration and payment; they were not affected by contagion from the taxpayers prone to tax evasion or by the coercive measures. Figure 1 shows the structure of the taxpayers managed by ANAF.

Figure 1
Structure of the taxpayers managed by ANAF with voluntary compliance at tax declaration and payment



Source: Produced on the basis of the data from Table 1

Analysing the graphic evolution of the total number of taxpayers managed by ANAF correlated with the number of taxpayers with voluntary compliance at tax declaration and payment we will notice that while the number of taxpayers managed by ANAF decreased, the number of taxpayers with voluntary compliance at tax declaration and payment increased.

The intensity of the number of checks is an important measure for the containing and improvement of the fiscal behaviour of the taxpayers. ANAF maintained a rather constant number of checks during its early years of operation, with an annual average of about 260,000 checking operations; afterwards, as the compliance at declaration loosened, the fiscal authorities intensified progressively the number of checking actions, whose annual average exceeded 338,000 in 2009, 2010 and 2011 (Table 2).

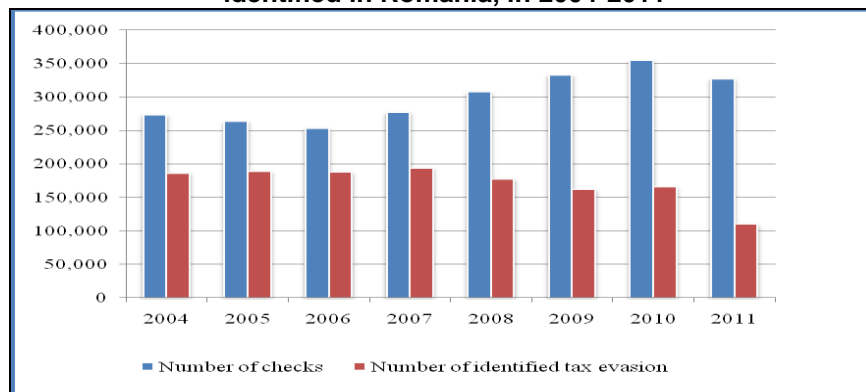
Table 2
Quantitative evolution of the checking operations and of the cases of tax evasion identified in Romania in 2004 - 2011

Indicator	2004	2005	2006	2007	2008	2009	2010	2011
Number of check operations	273.020	263.263	252.719	276.853	307.400	332.681	354.506	327.501
Number of identified cases of tax evasion	186.210	188.418	188.001	193.458	177.485	162.127	165.819	109.881
Frequency of tax evasion (%)	68,2	71,6	74,4	69,8	57,7	48,7	46,8	33,5

Source: ANAF Performance Reports, own calculations of the authors

The intensity of the checking operations proved to be efficient and it curbed the number of identified tax evasion cases. Thus, in its first year of operation ANAF had run over 273,000 checking operations and identified over 186,000 cases of tax evasion, while in 2011 it run 327,000 checking operations and identified about 109,800 cases of tax evasion.

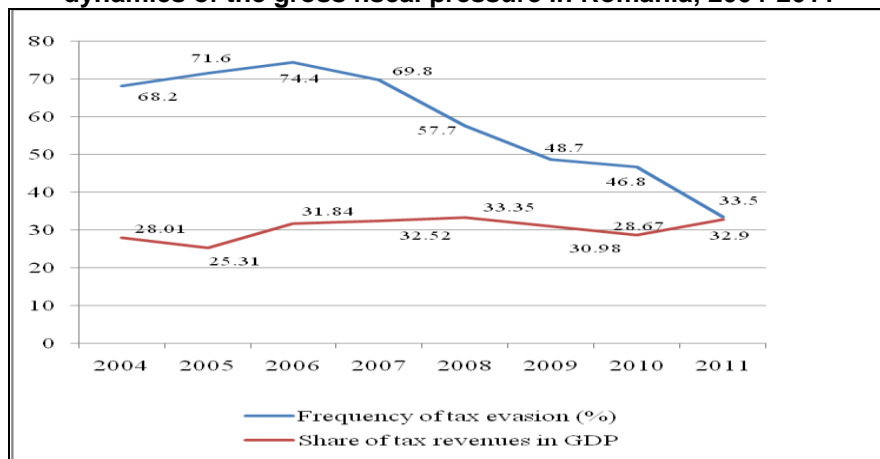
Figure 2
Dynamics of the checking operations and of the cases of tax evasion identified in Romania, in 2004-2011



Source: Produced on the basis of the data from Table 2

Indicator frequency of tax evasion shows a significant reduction of the number of checks conducted from 74% in 2007 to about 33% in 2011. In order to identify some pertinent arguments that cause the frequency of tax evasion to decrease, we analysed this indicator in correlation with the dynamics of the gross fiscal pressure.

Figure 3
Correlation between the frequency of identified tax evasion and the dynamics of the gross fiscal pressure in Romania, 2004-2011



Source: Data from the Ministry of Public Finances and from Table 2

The correlation between the two indicators shows an independency manifested by an inversely proportional evolution, which reveals a low influence of the fiscal pressure on the frequency of tax evasion. This low influence of the fiscal pressure on the frequency of the identified tax evasion strengthens the hypothesis mentioned when we analysed the indicator intensity of the checks, according to which the significant decrease of the identified tax evasion frequency is the result of the higher intensity of the activities of inspection and of the diversification of the inspection goals from check and punishment, to check, counselling, fiscal education and punishment. These arguments are also supported by the positive evolution of the indicators of voluntary compliance.

In order to have an overall picture of the intensity of the inspections and of the frequency of the identified tax evasion cases, we will make an analysis by relating these two indicators to the total number of taxpayers managed by ANAF.

Table 3

Evolution of the number of checks and of the identified cases of tax evasion related to the total number of taxpayers managed by ANAF in Romania, 2004 - 2011

Indicator	2004	2005	2006	2007	2008	2009	2010	2011
Proportion of checks within the total number of taxpayers managed by ANAF - %	3,33	3,25	3,16	3,46	3,94	4,50	4,60	4,20
Proportion of identified cases of tax evasion within the total number of taxpayers managed by ANAF - %	2,27	2,33	2,35	2,42	2,28	2,19	2,15	1,41

Source: Data from Tables 1 and 2 and own calculations

Analysing the evolution of the number of checks and of the number of identified cases of tax evasion related to the evolution of the total number of taxpayers managed by ANAF from its establishment, one may notice that the proportion of checks and of the identified cases of tax evasion within the total number of taxpayers is low.

Besides the identified cases of tax evasion there also are unidentified cases of tax evasion², which, according to some national and European estimation exceeds 15% of the GDP in 2010. The rather low proportion of the number of inspections related to the total number of taxpayers and the excessive dimension of the unidentified tax evasion are arguments that must lead to the reconfiguration of the strategic actions conducted by ANAF, towards a higher frequency of inspections and towards the

² According to estimations of the National Institute of Statistics and of Prof. Dr. Friedrich Schneider, Johannes Kepler University, Linz, Austria, the size of the unidentified fiscal evasion in Romania was about 10% of the GDP in 2004, exceeding 15% of the GDP in 2010 (over 20 billion Euros).

identification of the large size cases of tax evasion, in order to curb tax evasion and to increase the proportion of voluntary compliance upon declaring and paying the fiscal duties.

On the basis of the data from Table 1a, from the appendix, we will analyse the dynamics of the value of the identified tax evasion and of the average value of the identified tax evasion cases.

The **total value of the cases of tax evasion identified** in 2004 – 2011 increased each year, from 982,350 thousands lei in 2004, to 12,691,746 thousands lei, in 2011. Concomitantly with this evolution, the number of identified cases of tax evasion decreased, which lead to the significant decrease of the average value per case of tax evasion from 5,275 lei in 2004, to 115,504 lei in 2011.

The **total value of the applied financial sanctions** reveals a decrease of them related to the size of the identified cases of tax evasion. Thus, in 2004, the value of the applied sanctions represented 202% of the value of the identified cases of tax evasion, while in 2011 it represented 85%. This relaxation of the sanctions favoured and consolidated the average individual value of the identified cases of tax evasion.

During a second stage, we consider it useful to analyse the fiscal behaviour of the legal persons. The argument of this analysis is the fact that the natural persons taxpayers have their incomes levied at source, which limits the manifestation of tax evasion, while the legal persons taxpayers pay their taxes out of the “pocket”, which creates possibilities and opportunities for tax evasion. Thus, we will calculate and evaluate the frequency of tax evasion during the analysed period, the average individual size of the identified cases of tax evasion, the probability of being inspected and the rate penalty after inspection.

The data presented in Table 2a show that during the analysed period, the fiscal authorities have intensified permanently the fiscal inspections of the legal persons taxpayers, the number of checks increasing by more than 47% in 2011 compared to 2004. This shows a higher number of cases of tax evasion identified at the legal persons taxpayers.

The **average proportion of the tax evasion identified** at the legal persons taxpayers out of the total tax evasion identified during the period of reference exceeds 95%, which leads to a broader analysis of this category of taxpayers.

The fiscal behaviour of the legal persons taxpayers analysed in terms of identified cases of tax evasion, calculated in relation to the number of identified cases of tax evasion and with the number of inspections, reveals a lower frequency of the cases of identified tax evasion. In the case of the legal persons this indicator is not relevant enough because the actual number of identified cases of tax evasion increased. This low frequency is given by the denominator of the ratio, the number of inspections, which increased more than the numerator, the number of tax evasion cases identified among the legal persons.

By 2010, the number of identified cases of tax evasion had increased by 23% compared to 2004, while in 2011 this indicator decreased by over 50% compared to 2010.

The **average size of the identified tax evasion per case**, for the period of reference, had increased by more than 575% in 2010 compared to 2004. We did not compare the value to 2011, when the number of cases of identified tax evasion cases decreased significantly compared to 2010, in order not to amplify excessively the size of the tax evasion identified per case.

The average amount of tax evasion per identified case increased worryingly (by about 20 times in 2011 compared to 2004 for the legal persons taxpayers). This can be interpreted as by a higher intensity of the inspection activity, or by the higher professional competency of the fiscal inspectors who managed to unveil the complex and intricate strategies which the taxpayers use to avoid paying taxes and dues. This situation also reveals the existence of permissive possibilities for higher tax evasion by the experimented taxpayers.

The **possibility to be submitted to inspection** can be calculated on the basis of the ratio between the number of inspections conducted on legal persons and the number of taxpayers who are legal persons (the

number of legal persons recorded with the Registry of trade on December 31 of each analysed year).

On the background of the concomitant increase of the number of taxpayers who are legal persons and of the number of inspections conducted on such taxpayers, the probability of inspection displayed a cyclic evolution.

This situation, from the point of view of the fiscal authority, shows that the intensity of the check activity didn't increase putting therefore continuous constraint for compliance in stating and paying the fiscal duties (see Table 3a from the appendix). From the point of view of the taxpayers, legal persons, this situation can be interpreted as being stimulating to continue tax evasion.

The **rate of penalty after inspection** will be determined as ratio of the value of the applied sanctions and the value of the tax evasion.

Analysing the rate of penalty we observe that it increased in nominal value, while maintaining the same increasing trend with the value of the identified tax evasion (Table 4a from the appendix). Percentually, the value of the applied sanctions in relation with the value of the identified tax evasion decreased significantly, from 202% in 2004, to about 85% in 2011.

The possible explanations for this evolution might be the transformation of some financial sanctions for tax evasion into imprisonment sanctions, the legislative provisions on the size of the fines (from ... to ...) for tax evasion, which may lead to possible negotiations between the taxpayer and the financial inspector to set the minimal medium or maximum level of the fine.

On the basis of the observations we may conclude that in 2011, a taxpayer, legal person, had 14.54% chances to be inspected and 34.5% chances to be identified with tax evasion, for which it can be fined with about 85.4% of the tax evasion.

Some findings

- The existence of corrupt practices within the public sector, particularly among the factors coordinating the collection and allocation of the public funds, constitutes significant positive enticements for the taxpayers prone to tax evasion.

- The performance of the state in general, and of the fiscal authorities, in particular, depends on the feeling of commitment which the citizens display towards the community, on their will to comply with the dispositions of the authorities and on their voluntary compliance with the fiscal authorities. However, the fiscal authorities were not supported to apply some strategies of modelling the behaviour of taxpayers. We refer here to the policy in the field of justice which, although there have been and there still are famous cases of tax evasion, didn't send a firm signal about the penalty in such cases, by solving some cases which could be landmarks for the potential taxpayers prone to tax evasion. On the contrary, the perception of the tax evading taxpayer is that tax evasion can be done in Romania without running particular risks.

- The policy in the field of education didn't focus on the necessity of the Romanian society to implement and develop the civil education in general, and of the fiscal one in particular. The traditional Romanian ballads³, which were landmarks of the pre-school and elementary education, were urging from childhood to deceit, hate and lies. Such urgings has to be replaced in the school curricula with positive elements developing the civic feeling, the dignity and morality of the future citizen and future taxpayer;

- We will thus notice that in Romania there are all the elements specific to the development and perpetuation of a tax evading behaviour, with accomplice authorities, lenient justice and intelligent taxpayers which speculate both the complexity and ambiguity of the fiscal legislation, and the opportunities provided by the authorities.

³ *Miorița*

Possibilities to control and to improve the fiscal behaviour

The strategy to control and improve the fiscal behaviour of the taxpayers must follow structurally several aspects:

- The average size of the tax evasion by identified case increase worryingly, which requires reviewing the strategy to control tax evasion by increasing the number of inspections and the size of the fines and sanctions applied, at least for the category of tax evading people which do it with premeditation;
- The administrative capacities together with the fiscal procedure are the main platforms which need revision. The reform of the heavy bureaucratic apparatus and a better transparency of the authorities are imperiously necessary in order to increase the premises for the normal functioning of the relation with the taxpayers;
- The taxpayers claim the long period required to solve the fiscal litigations and, many times, the fail of the administrative and legal authorities to assume responsibility. These aspects, as well as the long period of waiting and the unclarity of the answers can also be met in the everyday relations or in the correspondence between the authorities and the taxpayers;
- The improved relation between the authorities and the taxpayers must rely on a continuous process of changing the attitude of the authorities, as well on the development of expertise and even on the specialisation of the authorities by type of taxpayer. The flexibility and transparency of such relation needs a better legislative formalization of the rights and duties of each side and the possibility of direct negotiation and mediation between the taxpayers and the fiscal authority;
- A better synchronization of the fiscal mechanisms with the accounting mechanisms in order to limit the legal possibilities of ducking or decreasing the payment of taxes and dues;
- The introduction of a system of indicators to monitor the taxpayers which, based on warning thresholds, which to identify with higher probability the tax evading taxpayers; this would efficientize the costs of administration, would decrease the unidentified tax

evasion and would thus shape positively the fiscal behaviour of the taxpayers;

- The conservation, consolidation and identification of possibilities to provide bonuses/premiums to the mass of taxpayers which comply voluntarily with the statement and payment of taxes (facilities, informative/advertising campaigns);
- Provision of counselling to the taxpayers which didn't comply, but which display the intention to comply, because of some difficulties of understanding and interpreting the legal language;
- The use of a mix of measures focusing on the counselling and fiscal constraints of the taxpayers which didn't comply purposely but which, under the spur of financial constraints and potential punishments, may shape their behaviour;
- The use of a set of measures based on constraints and severe punishment for the premeditating tax evading taxpayers showing despise and ignorance towards the fiscal law and which may become "contagious" for the other categories of complying taxpayers.

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Appendix

Table 1a

Size of the identified tax evasion and of the penalties applied in Romania (2004 – 2011)

-thousands lei-

Indicator	2004	2005	2006	2007	2008	2009	2010	2011
Total value of the identified tax evasion	982.350	1.746.304	1.513.000	1.828.000	3.859.000	6.641.500	9.602.300	12.691.746
Total value of the applied sanctions	1.984.522	1.137.326	2.417.000	3.039.000	5.586.000	5.096.000	4.626.200	10.836.254
Total amounts drawn additionally	2.966.872	2.883.630	3.930.000	4.867.000	9.445.000	11.735.500	14.228.500	23.528.000
Number of identified cases of tax evasion	186.210	188.418	188.001	193.458	177.485	162.127	165.819	109.881
Average value of the identified tax evasion per case	5,275	9,268	8,048	9,449	21,743	40,965	57,908	115,504

Source: Performance reports ANAF, own calculations

Table 2a**Evolution of the tax evasion identified in Romania in 2004 – 2011, legal persons**

Indicator	2004	2005	2006	2007	2008	2009	2010	2011
Number of checks	151.950	146.643	148.584	173.350	198.404	266.142	201.270	223.853
Proportion of inspections conducted at legal persons within total number of inspections	55,7	55,7	58,8	62,7	64,5	80,0	56,8	68,3
Number of identified cases of tax evasion	127.550	138.902	143.437	153.350	145.183	151.712	157.859	77.282
Proportion of tax evasion identified at legal persons within total number of identified cases of tax evasion (%)	68,5	73,7	76,3	79,3	81,8	93,6	94,8	70,3
Frequency of tax evasion (%)	83,9	94,7	96,5	88,4	73,17	57,0	78,4	34,5
Total value of the identified tax evasion (thousands lei)	958.190	1.694.169	1.472.149	1.776.800	3.735.512	6.459.828	8.016.200	12.026.486
Proportion of tax evasion identified at legal persons within the total identified tax evasion (%)	97,5	97,0	97,3	97,2	96,8	97,2	83,5	94,7
Average size of tax evasion (lei/case)	7.512,2	12.196,8	9.985,0	11.586,5	25.730,0	42.579,5	50.780,7	155.618,2

Source: Performance reports ANAF, own calculations

Table 3a**Probability to be inspected by ANAF for the taxpayers – legal persons**

Year	2004	2005	2006	2007	2008	2009	2010	2011
Number of tax payers, legal people	970.094	1.063.277	1.155.519	1.260.642	1.364.176	1.421.390	1.473.519	1.539.782
Number of inspections	151.950	146.643	148.584	173.350	198.404	266.142	201.270	223.853
Probability to be inspected (%)	15,66	13,79	12,86	13,75	14,54	18,72	13,66	14,54

Source: Registry of trade, own calculations

Table 4a**Rate of penalty**

Indicator	2004	2005	2006	2007	2008	2009	2010	2011
Total value of the identified tax evasion (thousands lei)	982.350	1.746.304	1.513.000	1.828.000	3.859.000	6.641.500	9.602.300	12.691.746
Total value of the applied fines (thousands lei)	1.984.522	1.137.326	2.417.000	3.039.000	5.586.000	5.096.000	4.626.200	10.836.254
Rate of penalty (%)	202	65,1	159,7	166,2	144,7	76,7	48,2	85,4

Source: own calculations using the data from Table 2a