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Methods and Procedures for the Accomplishment of Tax Inspection

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Abstract:

The general process of knowing the phenomenon, processes and activities, no matter in what field of activity they take place, can be made by organizing and applying of some procedural systems, with the purpose to establish the correct way of their achievement in practice.

For achieving the knowledge process of an economical phenomenon, process or activity, the tax inspection has to apply its own procedures and methods, that will have to obtain accurate results, according to reality and to tax legislation.

The tax inspection has as an object checking the taxation basis, the legality and the concordance of the tax declarations, the correctness and the accuracy of the accomplishment of the obligations by the tax payers, the respect of the tax and book-keeping legislation's stipulations, the establishment of the payment obligations' differences and also the accessories afferent to these.

The knowledge process of the manifestation module of the phenomenon, processes and activities is accomplished by proceedings and techniques specific to each discipline.

Like any other discipline that has in purpose to research the concrete and practical module to accomplish certain human acts, the tax audit may use many analysis proceedings and techniques, both general, belonging to other disciplines, and specific to the method, the sphere and its activity object. From this multitude, we consider that the ones regarding both the documentary and the factual control are specific to the exertion mission of the tax audit.

A. The book-keeping documentary control

The documentary control, as a proceeding specific to the tax audit, is defined as a complex of checking acts accomplished in order to establish the legality and the reality of certain data or of certain economical operations registered in the primary documents and/or in the technical-operative, financial and administrative evidences and also of their accomplishment's efficiency.

The book-keeping documentary control is accomplished by specific techniques, each of them having its own exertion procedure, but with a

common purpose, namely the establishment of the reality regarding the status of an economical phenomenon resulted from its comparison to a series of criteria through which it was defined and institutionalized.

Between the techniques of the book-keeping documentary control, we mention the chronological control, the systematic control, the mutual control, the crossed control, the control calculation and investigation.

The chronological control consists in the analysis of all the documents that make the order of their emission and registration in the evidences, without groups or preliminary systematizations on different criteria or activities of theirs.

The systematic control represents another technique belonging to the proceeding book-keeping documentary control, used with very good results when the control action contain many theme objectives referring to different activities, but in the frame of the same unity. This control technique supposes at first to group the documents on different activities, the accomplishment of the chronological or conversely chronological control of all the documents that make the object of the checking theme in frame of each group.

The mutual control is the documentary control technique whose objective consists in establishing if some of the common information that have the same content, registered in primary documents, different as form and function but with a part of the contained information, are identical.

The crossed control is exerted both at the unity that emits the document, by checking the data registered in the kept copy, and at the different partners of it or at different economical unities that have received the other copies, mentioning that the emitter's copy is not always the correct one.

The investigation is featured by the fact that it is different from the techniques presented above, both by the activity sphere and by the manner of exerting the checking action that is accomplished in its frame.

The investigation is a control way that is accomplished when the tax auditor does not find, in the checked documents and evidences, all the elements needed to support certain findings, but he does not find either enough elements that could confirm the correct accomplishment of the controlled operations.

So, the investigation is an action specific to the auditor and its success depends, in a determined manner, on his professional preparation and on the ability used for the accomplishment of the checking.

The calculation control represents one of the documentary control's techniques that are used the most in the financial-book-keeping checking

activity and it supposes the remaking, by the auditor, basing on the data registered in the official, primary or centralizing documents and on the legally established procedures, all of the calculations from which results an information that makes the object of the control. By applying this control technique, it is accomplished a double checking, both of the information registered in the primary documents and of the aggregated ones, obtained from these ones, fact that gives the auditor a great confidence.

B. The factual control

The factual control is the proceeding that, by using certain techniques specific to the tax audit, accomplishes its main objective that consists in the establishment of the existence and of the movement during a certain period of time that is determined, of all the material and money means in an economical unity. The proceeding also wants to establish the physical status of the material means, their administration way and the way we respect the legal stipulations regarding their utilization in the economical process.

The factual control is accomplished by using several techniques and we will present these ones: the inventorying, the technical expertise and the laboratory analysis, the physical inspection and the direct observation.

The inventorying, as a technique of the factual control's proceeding, is defined as an ensemble of operations that has in purpose to find the existence, in the economical unity's patrimony, of all the active and passive elements in a certain moment of time.

The expertise is "a means of proof, regulated by the civil procedure code's stipulations, demanded by the court, in order to establish an objective truth needed for clarifying another factual status that demand special preparation in the field of science, technique, art or other specialty that the judge does not own".

The technical expertise, as a method of accomplishing the factual control, is the activity of establishing the reality regarding the integrity of certain material values or of the way to accomplish certain technical operations that are integrated in an economical process that suffers the checking action.

The technical expertise is accomplished by authorized persons, for the situations when the inspectors' professional preparation does not allow them to establish certain truths related to the technical aspects that make the object of the checking activity. In order to ground the found deviations, the auditors may demand even the accomplishment of more complicated physical, chemical, electrostatic or other kind of analysis, whose accomplishment demand the utilization of the laboratory devices or the specialty ones.

The results of the technical expertise and of the laboratory analysis represent proves in supporting the findings only if they are confirmed by the data registered in the primary documents, the technical-operative or financial or administrative evidences of the checked economical unity.

The direct observation is an exertion technique of the factual control proceeding that supposes the auditor's change of place, referring especially to the way the economical-financial operations were realized.

The physical inspection is another technique belonging to the factual control proceeding, through which the auditor, after the accomplishment of the checking action, establishes himself the status of the patrimonial element at a certain moment of time. The finding of the eventual deviations related to the active's status will be done by confronting the physical inspection's result to data regarding its situation at the control moment, registered in the book-keeping evidence of the controlled unity.

The physical inspection is a control way whose results may represent very exact proves because of these results come from two controls: the physical one, accomplished at a certain moment of time, and the one consisting in the checking accomplished subsequently by the same person.

The evaluation methods have evaluated across the time in parallel with the tax products' evolution. These have to be compatible with the principles that are placed at the base of the taxable matter's determination, with the taxation techniques and with the economical agents' obligations regarding the organization and the management of the book-keeping.

The evaluation by means of the tax declarations made by third persons that know the exact situations of the tax payers sometimes completes the used methods or may function independently of it.

The obligation of the documents' evaluation and presentation, from which results the quantum of the payments that were done, belongs to certain third persons, without existing the compulsoriness of accomplishing some periodical tax declaration to be laid down at the tax administration. So, the taxable incomes' declaration is made when it is expressly demanded or when the tax administration exerts the control act.

The method contributes to the simplification of the relations between the tax administration and the tax payers, when the periodical control of the information coming from the taxable incomes gets other valences. The administration's duty is just to check the economical agents, the public institutions and the persons that make payment to other subjects in the economy and, in consequence, know the exact situation of the paid incomes. These may be: public societies and institutions for the employees' wages, for the fees and commissions paid to certain persons, for the indirect taxes

contained in the prices of the goods and services offered on the market (that do not make the object of the tax declarations laid down at the administration), the financial societies that have to pay the incomes brought by the financial products of their owners, the lodgers for the rents paid to the owners, the debtors for the debts paid to the creditors, the social security organs for the fees paid to the doctors, the brokers and the dealers for the transacted financial titles etc.

The contractual evaluation is accomplished depending on a number of pre-established economical elements, specific to the activities developed by the tax payers that are in a direct relation with the taxable matter represented by the income or by the fortune and that are considered to influence their contribution ability.

The major disadvantage of the method consists in the fact that, no matter the number of the revealing elements that were used, we arrive to a general under-evaluation of the taxable matter. This trend is stimulated by the existence of two influences, one of them from the legislative frame and the other one from the tax payers.

The evaluation based on the external signs or by assumption is an extremely simple method but it is imperfect for corresponding to the modern demands of tax justice, this one still subsists in the tax practice in order to establish some local taxes. The disadvantages that determined its abandonment come from the rudimentary evaluation technique that leads to the establishment of an approximated taxable value and to the impossibility of the establishment of a correlation between this and the tax payer's contribution ability.

The method represents a limited appliance of the reality principle since the used indexes are not enough relevant in order to determine the real value of the taxable matter.

The taxable matter is taken into consideration in its ensemble but, since the taxable value is established by means of some indexes, considered as representing external signs of its value, in my opinion, the tax drawing reflects neither the real fluctuation of the taxable matter's value, nor the real contribution ability, but just a supposed one. The impossibility to provide the correlation of the contribution ability with the tax obligations and the neglecting of the incomes and fortune that do not correspond to the well established external signs make the method to be unfair in its ensemble. In the same time, it is unproductive for the budget because of the extremely low and relatively stable efficiency.

The corrective evaluation contains an ensemble of procedures, through which it is reestablished currently or it is determined in exceptional

situations the taxable value and the legal quantum of the tax drawings. The tax administration's right to establish the correct value of the taxable matter is not limited at the procedure currently named administrative evaluation (after all, the contractual evaluation is also an evaluation made by the tax administration), either ex officio evaluation, or evaluation by assumption in a penalizing purpose. All these names respond to an ensemble of questions. Who unleashes the evaluation procedure? The tax administration does! How is it developed? Ex officio, basing on the right to control and correct the quantum of the tax payer's tax obligation! Why? To correct the established obligation or to sanction the defalcations from the payment of the legal obligations! Therefore, it appears a limitation that cannot be accepted of the situations when the tax administration interferes in order to provide the respect of the tax laws and the protection of the claims that the State has over the tax payers.

In order to accomplish the tax inspection, the specialty organs may apply two control methods:

- The control by poll that consists in checking selectively the important documents and operations where it is reflected the calculation way, the evidence way and the payment way of the tax obligations due to the strengthened general budget.
- The electronic control that consists in the checking activity of the book-keeping and of its sources, electronically processed, using the analysis, evaluation and testing methods assisted by the specialty informatics tools.

The tax inspection's purpose is to diminish the tax evasion and, as much as possible, to eliminate it. For that, the methods and the techniques used by the control teams have to evolve permanently and to correspond to the European Union's demand, as Romania is a member since January 1st, 2007.

References:

1. Bouquin H. – Compatibilitate de Gestion, Edition Economica, Paris, 2003
2. Calin O., Carstea Gh. – The Administration Book-keeping and the Costs Calculation, Altos Press, Bucharest, 2003
3. Ciomag M. – The Public Institutions' Book-keeping, 2nd edition – reviewed and added, Mirton Press, Timișoara, 2004
4. Ciomag M. – The Financial Book-keeping for small and medium companies, Ager Press, Tg-Jiu, 2002

5. Ciomag M. – The Financial Book-keeping according to the 4th Direction of CEE, Universitaria Press, Craiova, 2006
6. Fruja I., Jivan Al. – The Marketing of Services, the 1st part, Nero-G Press, Timișoara, 1999
7. Jivan A. – Modern Services – A Challenge for the Economical Theory and Practice, Mirton Press, Timișoara 1996
8. Pop. A. – Romanian Financial Book-keeping, Intelcredo Press, Deva, 2003
9. The book-keeping law no. 82/1991, republished, MO 454/2008, with the subsequent changes and completions
10. Law no. 571/2003 regarding the Fiscal code , with the subsequent changes and completions
11. HG no. 44/2004 for the approval of the Methodological Norms to apply the Law no. 571/2003 regarding the Fiscal code , MO no. 112/2004.
12. The collections of the special magazines 2003-2006; Public Finances and Book-keeping; The book-keeping, the Expertise and the Business Audit; The Economist; The Economical Tribune; The Economical Truth.