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THE COORDINATES OF MODERN FISCAL INSPECTION

The activity of fiscal inspection is designed to the encouragement and procurement of the highest degree of voluntary conformity to legal foresights about fiscal matter and to those ones application norms.

The fiscal inspection must be developed in an accurate and impartial manner in order to guarantee the highest level of regularity and efficacy, and the purpose of fiscal inspection is to establish the precision of the achievement of fiscal liabilities by the contributor.

The efficacy of fiscal inspection necessitates the existence of some high level speciality knowledge, and a well professional qualification of fiscal inspectors.

Each contributor has its own particularities, specific to the area of activity, to its administration and to the applied policy. They represent an advantage for an inspector that has already controlled such a society, because, in this way, it disappears the necessity to initiate the inspector in the respective field of activity. At the same time these aspects also represent a guarantee of the inspector's opinions safety, which can increase the contributor's trust in the measures disposed by the act of control.

So, it is important for the fiscal inspectors to be hired to perform controls on fields of activity, in accordance with their former experience (a minimal professional profit of the inspectors in the great branches of activity is a guarantee of the efficacy of fiscal inspection). The time given for the documentation over the specific of that field will be reduced.

Permanently, the fiscal inspector must be aware of the fact that fiscal inspection represents a burden for the contributor. In consequence, he must take into consideration the proportion between the means used in rapport with the fiscal risks; at the same time he must limit the use of radical means (for example forfeitures) only at the cases in which these ones are strictly necessary. The fiscal inspector must be aware of the fact that he represents the fiscal administration in rapport with the contributor subjected to the inspection; through his impeccable attitude and his dignified behaviour, the fiscal inspector must mark out and delineate the external image of financial administration. On the other side, the inspector's superiors will interfere without delay and directly against the unjustified assaults against the fiscal inspector.

The fiscal inspectors are obliged to apply correctly the laws approved by the legislator regarding duties, taxes, and contributions owed to state budget. By its activity, the fiscal inspection must encourage the contributors' correct declarative behaviour.

The fiscal inspector's impartial and fair attitude helps to the increment of voluntary observance of fiscal settlement.

The principles that must be followed in the selection of the cases are those of fiscal inspector's efficiency and the correct and unitary application of fiscal legislation.

The Fiscal Administration doesn't have enough personnel in order to effectuate fiscal inspections to all the contributors, for the entire taxation period. From this reason the efficiency of fiscal inspection highly depends on the proper selection of the cases. This means that, in the measure this thing is possible, the contributors that necessitate fiscal inspection must be subjected to the verification in the prescript term; in change the contributors, to whom there are not tax rectifications or these ones are less probable, on the basis of the file or the experience accumulated by Fiscal Administrations, must not be included with priority into the program of fiscal inspection.

The inclusion of those last ones would unnecessary necessitate human resources that could be used efficiently in other fiscal inspections.

The contributors' selection according to the policy described above leads to a necessity control. The elements of knowledge, very helpful in the selection of a contributor for the fiscal inspection programme, are the following:

- The information provided by the fiscal file regarding the contributor's volunteer conformity;
- ~ the findings resulted from the previous fiscal inspection; the existence of a demand for fiscal inspection;

~ the existence of some traces, from the part of some fiscal administrations or institutions, regarding facts that can lead to the settlement of supplementary fiscal obligations.

For example, it isn't opportune that, at a Commercial Society with a small turnover and reduced profit to be performed an ample and long standing fiscal inspection (except the existence of some private information regarding an eventual fraud), while another Commercial Society, comparable with the first one, is included in the inspection programme only at a 3 years interval and the fiscal inspection is of short standing or is limited only at certain aspects.

Such a practice could be inefficient and could contravene to the principle of contributor's equal treatment.

The fiscal inspection can rely upon the aleatory elements of selection, so that it cannot be predictable. The unpredictable character of fiscal inspection is part of its preventive effect; so the contributors cannot acknowledge when he would be selected for fiscal inspection.

The ideal would be the combination of the two principles (the selection in accordance with the risks and the aleatory selection) in order to obtain a balanced rapport in the selection of the contributors for fiscal inspection.

The selection principle regarding the uniformity of taxation is the general fiscal inspection (aleatory selection).

This principle has a special importance because it derives from the principle of equality of all citizens in front of the law and administration.

The observance of this principle means that the density of fiscal inspections performed at contributors (societies) that present the same fiscal risks (for example regarding the field of activity, the size, etc.) must be similar in the whole country.

The fiscal control is realized by specialists prepared in the fiscal field, financial-accounting and specialized in investigation and fiscal inspection techniques.

Fiscal inspection has the aim to identify fiscal evasion.

The following situations can be considered as being indicators of fiscal evasion:

- the non entering of fiscal declarations;
- the fiscal un-registration;
- the refuse of being subjected to fiscal inspection or a no cooperative attitude towards the team of fiscal inspection;
- the presentation of some false documents to sustained some affirmations or positions comprised in declarations or destroying the evidences.

The list of fiscal evasion indicators represents just an element of suspicion (there are not rare the cases in which a contributor that register great losses won't establish an accounting result and won't subscribe the declarations of taxes on profit, not towards the Fiscal Administration - the duty is zero - but towards the banks).

Without any clear and sure proofs it cannot be reached a better result for the fiscal inspection, from which derives also the necessity of picking a larger number of concrete elements.

The fiscal inspector must be able to make the difference between the errors made by contributors unintentionally and those committed with knowledge, in order to reduce taxes.

Firstly, it must be proved that the controlled society hasn't correctly declared its taxes, duties and contributions.

Secondly, it must be proved, by case, that the non declaration of the income was deliberate and that it is not due to a simple error or to an involuntary slattern.

The code of fiscal procedure establishes the forms of fiscal inspection and the control procedures used by fiscal inspectors in the actions programmed to be realised:

The general fiscal inspection represents the control activity of the manner in which a contributor's fiscal obligations are accomplished, for a determined period of time.

The partial fiscal inspection represents the control activity of one or more fiscal obligations, for a determined period of time.

In order to realise the attributions, the fiscal inspection can apply the following control procedures:

The fortuitous control consists in the activity of factual and documentary verification, theoretically as a result of a intimation regarding the existence of some fiscal legislation encroachment facts, without beforehand sending to the contributor of an inspection notice,

The crossed control consists in the verification activity of contributor's documents and taxable operations in correlation with those held by other persons; the crossed control can also be fortuitous.

In order to realise these procedures it can be used as a working method *the control by sounding* that consists in the selective verification activity of the significant documents and operations that reflect the calculation, prominence and payment of the fiscal obligations owed to the Consolidated general budget.

The above methods and procedures can be combined in accordance with the objectives of the fiscal inspection, with the contributor's degree of voluntary compliance, with the contributor's type (the measure of the turnover, the legal form etc), with the existence of the branch offices or of multiple working points, with the case in which more contributors must be, at the same time, the object of fiscal inspection, with the coordination and centralization of the contracts at mother society.

The working methods and procedures are also chosen in accordance with the fiscal inspection team's disposal time - the limit of 3 or 6 months.

When choosing the fiscal inspection method it must be taken into consideration the type of activity developed by the contributors and the risk degree afferent to this activity.

In practice the fiscal inspection teams must also take into consideration the efficiency of fiscal inspection, namely the establishment of a correct proportion of the work towards the contributor's presumed fiscal risk degree.

The fiscal inspection team must extend the examination in order to include all regular and potential problematic taking into consideration the necessary time for this, connected to the potential expected result.

A qualitative fiscal inspection consists of the contributor's documents examination, thus this one can reveal, if there is the case, the relevant facts regarding the digressions from fiscal legislation and therefore, to track down the eventual fiscal evasion.