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TAX DODGING IN THE RECYCLING WASTAGE COLLECTING AREA

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Tax dodging is a complex socio-economical phenomenon that persists in all the countries and in all times, despite the penalties. Today states unwillingly confront with this phenomenon, its stopping being quite impossible.

The effects of tax dodging influence directly fiscal revenues had to distortions inside the market mechanism and can contribute to the growth of social inequities.

Presently in Romania there have been produced important prejudices to state budget by the economic agents that develop their activity in recycling wastage collecting area. This fact has determined the state to tax measures regarding the reduction of the phenomenon through "reverse taxation".

The organs of control of the Ministry of Economy and Finances are working to discover the tax dodging from this area, and the results prove that this phenomenon is more frequent in certain areas of the country, Gorj county being in one of the first positions.

The contributors for every country must constitute and transfer to the state budget a series of obligations. The multitude of these obligations, given by the fiscal regulations, and also by their quantum has stimulated, permanently, the ingenuity of the contributors in inventing different proceedings of evasion of fiscal obligations.

In the literature of speciality there is a terminological confusion between the fiscal evasion and fiscal fraud. Most often the fiscal fraud designs an infraction to the law, while the fiscal evasion is defined as a clever use of the possibilities offered by the law.

The first meaning given to tax dodging, especially between the two world wars, has been that in which the fraud has an extensive conception, meaning the notion of fiscal evasion is included in that of fraud.

The most known meaning in which tax dodging is known is the "art of avoiding the decay in the field of attraction of the fiscal law". According to this perception, tax dodging is assimilated to fraud. Among the authors that sustain this conception, are included M. C. de Bric and P. Charpentier who sustain that fiscal fraud is above all that one that is organised by the state that takes in this case the name of dodging and allows to its beneficiaries to escape tax.

For Maurice Duverger tax dodging refers to the totality of running manifestations from taxes. This is a definition in a larger sense of tax dodging that comes to include also the fraud.

In our literature of speciality, during the inter-war period, Virgil Cordescu sustains that "Tax dodging can be: illicit, having sometimes a fraudulent character, and legal dodging, or better said tolerated." It is understood by legal dodging the contributor's action of avoiding the law, resorting to a combination, not seen by the law authority, and therefore tolerated by tracking to lose. It can be possible only owned to an inadvertence or gap of the law. By illicit tax dodging it is understood the contributor's action that eludes the legally provision with the purpose of not paying the due tax.

Iulian Văcărel suggests the definition of tax dodging to impose a part of the taxable matter. In which regards the classification of this phenomenon the author shows that evasion can be done by a person sheltered by the law (law dodging) or with the infringement of legal provisions (fraudulent evasion). In the first case, evasion doesn't mean an infringement; in the second case evasion is considered fiscal fraud.

In conclusion it can be said that there is only one phenomenon that brings contact to fiscal incomes of the Consolidated general budget, that of the tax dodging that, according to the law report to the action of contact of those fiscal rights, can be illicit (illegal) fiscal which is synonym with fiscal fraud.

In România fiscal evasion is a concerning reason for the specialists in the field, the fiscal administration and the political factor. Tax dodging has manifested a lot during the 90s, this phenomenon had a large field of action. The decisional factors, the fiscal legislation, the attempts to limit its proportions have been anaemic and inefficient. evaziunea fiscală este un motiv de preocupare pentru specialiștii în domeniu, administrația fiscală și factorul politic.

In the legislation field we can underline the late admission of the Tax dodging law, respectively Law no 87/1994 that was applied at the end of 1994.

Subsequently it has been elaborated the Fiscal Code that is indispensable to the applying activity of fiscal law in order to limit and repress tax dodging.

Taking into account the accumulations in this area and the actual situation, it has been adopted the Law 241/2005 to prevent and control tax dodging - modern normative act that has determined satisfactory results in the area of fiscal evasion limitation.

In which regards the weight of taxes in the structure of tax dodging, approximately 70% is given to the Value added tax and profit tax. The tendency, taking into account Romania's adhesion to the European Union, is the growing of the weight of the open tax evasion growth at the reduced profit.

The commercial operations developed in the recycling wastage collecting and revaluation area are aiming the normal processes that are taking place inside the economy and the significant quantities of such materials that result as a consequence of the cassation and dismemberment of some tools and installations.

The main groups of industrial wastage valued in our country are: iron waste, non iron waste, plastic material waste, used oils, wood waste, textile waste, paper waste.

The recycling industrial wastage holders, juridical entities are bound to assure the collection, sorting and temporary deposit of these ones, and their introduction inside the productive circuit, by:

- Reuse in their own production processes;
- The revaluation, respectively the operations of dismemberment, sorting, cutting, crumbling, pressing, balloting, fiissing - casting, realised only on the basis of the authorisation emitted by the National Commission for Recycle of Materials that is under the Finance and Economy Minister. Also the economic specialised agents commercialise the secondary charge stocks obtained; Handing over by the economic specialised agents, authorised for valuation.

The economic agents that realise operations of collecting recycling industrial wastage proceeded from normal persons can develop their activity only on the bases of an authorisation emitted by the county prefecture, with the notice of the town hali of the country, town in which the respective economic agent works.

Tax dodging registered by economic agents with an object of activity - wastage administration - is very big, and in Gorj county it has "special results". This is why it is necessary to have an operațional and fundamental control for these economic agents, exercised by the control organs of the Finance and Economy Ministry.

The main objectives followed by the control authorities of fiscal inspection refer to: the inspection of the authorisations released by the National Commission for Materials Recycling for the activities of collection and evamation of industrial recycling wastage; the verification of the accomplishment of minimal conditions for the authorisation of each working point of economic agents that develop revaluation activities of the recycling wastage by dismemberment, sorting, cutting, balloting; the inspection of the evidence of the revaluation of recycling wastage according to the legal previsions, the inspection of origin documents afferent to wastage acquisition, respectively the magazine card for the wastage administration, the verbal process for the retirement of fixed means and the verbal process for declassing some material goods; the identification of the main purveyors of recycling wastage and the effectuation of cross controls in order to establish their reality; the acquisition of recycling wastage that do not have legal origin, that were coming from pilferages or from the crash of the public or private patrimony from unauthorised natural persons; the commerciaîsation of half-finished materials illegally obtained as a result of the unauthorised

editing, by elaborating some false fiscal documents, the specified companies being the "ghost" type; the commercialisation on the internal market or the export of some bigger quantities of recycling waste than the ones specified in the documents; the acquisition of some installations, tools, machines, merchandises as recycling waste, these ones representing goods in a good shape.

The modalities used in order to realise the tax dodging are represented by the breach of the above mentioned conditions, according to legal provisions.

The main modality by whom the economic agents have fraud the general budget consolidated is represented by value added tax deduction for furnishing from inexistent dealers and that didn't collect the value added tax and haven't paid it to the budget.

In order to limit the value added tax refunds there have been adopted measures of simplification that apply when the dealer and the beneficiary are registered for value added tax. Therefore, on the bills emitted for delivery of waste the dealers are obligated to write down "inverse taxation", without writing down the afferent tax. On the received bills from the dealers, the beneficiaries will write down the afferent tax that they accentuate as a collected tax and as deductible in tax discount. For the operations subjected to the simplification measures the payment of the tax isn't done between dealer and beneficiary.

Therefore the economic agents that develop their activity in waste area do not have the possibility to demand and receive amounts from the general consolidated budget, representing the value added tax, tax dodging has received an adequate "antidote".