THE EFFICIENCY OF FINANCIAL-FISCAL CONTROL – AN OBJECTIVE NECESSITY OF THE ROMANIAN SOCIETY

DOBRA Iulian Bogdan[1], ORCID: 0000-0002-6402-3629

Abstract: *The effectiveness of financial-fiscal control is a provocative field in the literature of macroeconomics. This paper aims to outline and analyse the effectiveness of financial fiscal control in Romanian society in the last three decades. Herewith, a literature review has been made to blueprint suitable thoughts related to our topic. The results illustrate that: i) the concept of financial control refers to the management of public finances, which involves the control of the expenditures and revenues of the state. On the other hand, fiscal control is focused on establishing the necessary resources to fund the state's budget. This means that the tax control and financial control ratios should be regarded as a party-to-whole arrangement; ii) although there have been studies that attempted to limit the scope of financial control and fiscal control, the two concepts still remain inextricably linked; iii) the concept of control is related to the management of various aspects of a socio-human activity, such as the establishment and maintenance of a framework for the improvement of the quality of life for all individuals iv) without making any mistakes, it is generally assumed that financial-control procedures are not effective if they do not have the necessary legislative framework; v) having the necessary legislative framework, financial-control procedures also need to be aware of the various techniques that can be used to avoid paying taxes and fees; vi) to effectively combat the various techniques that are used by the enterprises, financial-control bodies must regularly train their officers.*

Keywords: *financial-fiscal control, tax evasion, tax administration, tax code, tax revenue.*

JEL Classification: H21, H26, H30, H83

Introduction

In 1980, the World Bank issued a report on the state of public spending management. The report noted that many countries have made efforts to strengthen their structures of budgetary control and spending (Walsh, 1995; Considine, 2002; Benito and Bastida, 2009).

There is a need for a comprehensive and accurate assessment of the country's different problems and a discussion of possible solutions. This statement also serves as a call for greater attention to areas where feasible tax policies could be pursued.

Many of the issues prevalent in the 1970s and early 1980s were successfully addressed. However, there are still some issues that are still ongoing in Romanian society. The different changes in the structure and size of the public sector contribute to an intensive discussion on how to manage the limited resources of the public.

Fiscal control can be defined as the activity of verification, supervision and analysis of the way of achieving the objectives regarding the establishment, collection and transfer to the state of the legal obligations (i.e. taxation obligations), representing taxes, fees, contributions and other amounts due to the general consolidated budget (Dafflon, 2002, Wehner, 2010). One can notice that there is no clear delimitation regarding the definition of the idiom fiscal control. Synonyms such as

[1]Senior lecturer., "1st December 1918" University of Alba Iulia, e-mail address: dobra.iulian@uab.ro.
DOI: 10.29302/oeconomica.2022.24.2.13

tax compliance (OECD, 2004) or fiscal management, or fiscal economy (Wagner, 1958) can be found in the literature review.

Financial and fiscal control as a function of public finances also has an evolution closely linked to the financial system, influenced by its syncope and shortcomings (Wagner, 1958; Rosen, 2004).

Research Methodology

Our research pursues a qualitative method, which is carried out through a literature review. Qualitative research encompasses conducting a wide-ranging and in-depth analysis of several bases of information, particularly articles and books (Creswell, 2014).

The proposals, stated in our goal research, will explore the related issues concerning: i) efficiency of financial-fiscal control; ii) theory of optimal taxation; iii)" to pay or not to pay taxes?"; iv) management (i.e. administration) of control.

Results and discussions

The efficiency of financial-fiscal control

The efficiency of financial-fiscal control is directly proportional to the quality of the legislation, the application of which it seeks. Emile Durkheim in his book "The division of labour in society" shows the objective state of the social environment, materialized by a disorder of social norms due to sudden changes (e.g. wars, revolutions, economic crises, etc.), (Durkheim, 1991).

Regrettably, Romanian society is in such a state since December 1989 and has not managed to get out of this state for good until now, even if accession to the European Union has been achieved.

Thus, the incriminating text of some offences provided for by the Law on Tax Evasion (i.e. Law no.241/2005) includes only the hypothesis and sanctioning, while the provision is in other legal texts, some of which are without criminal provisions, without any correlation between them and which bear many changes at short intervals of time.

The lack of concrete legislation regulating the fiscal documents and those accompanying the goods created the possibility of the movement of goods and tax deductions based on documents belonging to other companies or issued on behalf of" ghost companies".

The evasion of tax obligations is allowed by the legislation in the fiscal field, such as the cost of excised products, which can be easily substituted with non-excised products (e.g. petroleum products, alcohol, tobacco, etc.), (Palan et al., 2010; WHO, 2015).

The fiscal control helplessly assists in an avalanche of taxpayers' statements by which they notify the tax administration that they have lost or have been stolen invoices, receipts, banderols, stamps, cash registers, etc., and the mere declaration of their loss or theft absolves them of any liability, a phenomenon unprecedented in other countries and not in Romania until now.

If we consider the responsibility of the administrator for the assets under management, in the sense that he is the only one who is liable by the effect of the law for the assets under his management, we do not understand why the same liability does not apply to those who manage the standard forms with special treatment (i.e. special regime) and this under the sanction of the criminal law.

Analysing the phenomenon over time, it results that these standard forms or cash registers are not lost or stolen, they are used to justify suspicious transactions, and after their realization, they are destroyed and declared lost or stolen (Greenlee et al., 2007), without the control bodies being able to prove this fact.

Also, the efficiency of the control decreases in the conditions of" suffocating" fiscal pressures (Wolman, 1983), which the average taxpayer does not face, the causes of which must be sought in the following realities:

- The need for constant fiscal resources from public institutions against the background of maintaining bureaucracy at a high level and a manifestly non-performing economy;
- Granting some facilities, as well as not taxing some incomes for various reasons, creating "non-realizations" in the budgetary revenues, usually covered by the excessive taxation of salary incomes;
- The existence of tax legislation not yet adapted to concrete situations that could put a stop to tax evasion and fraud.

Theory of optimal taxation

The fraud, tax evasion and smuggling that have developed in our country and the fact that the establishment of taxes, duties and contributions was not made according to the criteria generally valid in the market economy, listed since 1776 by Adam Smith (i.e. Book V, Ch. 2), who advanced the idea that a tax can be good if four” canons” are observed. According to Muray, these” canons” can be summarized as follows (Muray, 1999):

- *Economics*. No tax should require an expensive procedure to collect or discourage timely business.
- *Feature*. All taxes must be designed in a manner that is convenient for the taxpayer.
- *Certainty*. All taxes must be clear and understandable to the taxpayer (OECD, 2014).
- *Equity*. All taxes must be levied as” fair” and directly proportional to the income.

Consequently, the theory of optimal taxation does not provide a categorical answer to the problem of fiscal optimum, but it contributes to the most important measures to be considered when designing an optimal tax system, leading to maximum fiscal compliance (Atkinson, 1977).

Financial-fiscal control also has a human dimension that should not be neglected (Istrate, 2017). Despite the fact that the activity of financial and fiscal control is perceived not exactly favourably by society, it should be pointed out that, in general, these controls come in favour of the majority of a country's taxpayers and, in particular, the fair ones. If we assume that through financial control, all cases of waste, inefficient activities and illegal, untimely and uneconomic spending of public money could be eliminated, and through fiscal control, all taxpayers would be determined to comply with the payment of debts to the consolidated state budget, then the tax burden would decrease significantly for the vast majority of taxpayers.

If we consider the following desiderata:

a) Both the internal financial control (or financial management) of the companies and the internal audit ensure that they carry out profitable activities, eliminating waste and illegal expenses (Pickett, 2011), which would implicitly increase the tax base;

b) Fiscal control, which has as the main indicator of efficiency in all countries with advanced economies, is the degree of compliance of businesses to pay their debts correctly and on time to the consolidated state budget (Boros and Fogarassy, 2019);

c) The financial control of the government and the public internal audit ensure the legality, economy and opportunity of spending public funds (Dye and Stapenhurst, 1998).

If these desiderata were met, one could tend towards that ideal taxation, which, in Stephen C. R. Munday's view, has three requirements that must always be considered (Munday, 1999):

- The need for correctness, however, is defined;
- The need to minimise the administrative costs involved in taxation;
- The need to minimise the demobilising effects of taxes.

” To pay or not to pay taxes?”

In order to be able to make a meaningful analysis of the Romanian case with regard to these requirements, we must start from the premise that every taxpayer, natural or legal person, asks himself the question, of whether or not he has to pay taxes, and if so, to what extent?

Whether or not to pay taxes depends on two essential factors, namely:

- The entrepreneur's skill not to pay taxes or to pay derisory amounts taking advantage of inadequate regulations, with insufficient, unclear, confusing provisions, susceptible to interpretations of the most different or even contradictory (Ruggiero, 2015);
- The performance of the legislator in issuing appropriate regulations based on clear and sound principles of fiscal, economic and social fairness (Agere, 2000; Andreoni et al. 1998).

Every entrepreneur, be it a natural or legal person, is preoccupied, to the point of obsession sometimes, with using any legal means to obtain profit, without which the entrepreneur cannot exist.

Concerning the" successful people" carrying out activities of" legal tax evasion" they should not be sanctioned – and in fact, they cannot be sanctioned – for their ability to make money" in the shadow of the law", including on account of incomes that, under the conditions of appropriate regulations, it would be appropriate for the state budget. Those who should be sanctioned are the politicians and governors who have led or are leading incompetently, fraudulently and do not properly regulate the economic activity, leaving wide the gates open to the substantial reduction of the state budget revenues through the phenomena of tax evasion" legal", simultaneously with the fiscal burdening of the vast majority of the population and of the companies that work correctly."

These numerous and serious shortcomings in the tax legislation in our country benefit more and more the commercial companies with foreign capital, which, through their fiscal strategies, manage to evade the payment of an important part of the taxes and fees due to the state budget. In most cases, these amounts are transferred abroad, which is particularly serious, if we consider the international tax competition in which we are involved with or without our will, given the conditions imposed by the globalization of the world economy.

We must contemplate the stakes of this competition, which are very high and as a result of which the victors become richer and the losers poorer and poorer. The winners will certainly be the ones who will adapt their fiscal policy the fastest and best to the new rules of the global market economy.

In this context, the conflict between multinational companies and sovereign states, from a fiscal point of view, has been amplified more than ever, so that taxation must also be regarded as an economic policy instrument through which the state defends its national economy confronted with external aggressions, while at the same time inciting national companies to conquer new segments of the foreign market (Picciotto, 2015).

Management (i.e. administration) of control

In this international tax competition, the role of financial-fiscal control acquires new connotations, becoming one of the most important levers that national states use to prevent and reduce tax evasion and fraud and to combat the exodus of the "fruit" of tax evasion and fraud to other states or tax havens.

For these reasons, the low effectiveness of the financial and fiscal control in recent years must lead policymakers to think urgently about a new organization (i.e. management) of control, from the ground up, based on internationally recognized principles and considering the concrete realities in our country and the international conjuncture, as well as the conditions imposed by the European Union following accession.

In order to be able to counter the tax evasion and fraud committed by some economic agents guided by "tax strategists" who have become true experts in the "art" of evading the payment of taxes and fees "with the help of the law", the legislative and executive power must have authentic elites in the field of taxation and especially of financial-fiscal control, this fact has not been confirmed in Romania in the last 18 years.

Through the Fiscal Procedure Code (i.e. Law no.207/2015), some timid steps have been taken towards what works in the Countries of the European Community without solving the problems, on the contrary, they have been amplified lately, yet we present some novelty elements:

- Expressly enshrining the *principle of the active role of the tax body*;
- One of the most important principles of the Fiscal Procedure Code is the *taxpayer's right to be heard*;
- Another principle considered when drafting the Fiscal Procedure Code is the *principle of economic prevalence over the juridical*. This means that when the tax authority acts in order to establish the tax, the tax body must capture the reality and not the appearance, being subject to taxation all incomes and patrimonial values, regardless of whether the activities from which they are obtained meet or not the legal requirements, as well as the economic results of invalid legal acts;
- Of great importance in the entire taxation, procedure lies the *principle of proportionality*. This principle presupposes that the tax body, in exercising its right of appreciation, acts reasonably and balanced in all its acts and decisions, ensuring a fair proportion between the aim pursued and the means achieved to achieve it;
- *The regulation of the tax curator's institution* – within the income administration procedure, the Code also regulates the problems related to the tax control activity, as a novelty bringing the fact that the results of the tax inspection will be recorded in a report that will be the basis for issuing the tax decision, a decision that can be challenged by the taxpayer;
- Also, as a newness element is *the regulation of the period subject to tax inspection*, which aims to streamline the tax inspection activity.

Conclusions

Control, in general, is theoretically an activity put in the service of the good that has evolved, usually at the same pace as the evolution of the activities it controls.

The process of establishing, collecting, and transferring legally obligated funds is known as fiscal control. It involves analyzing, verifying, and monitoring the various steps involved in the procedure.

The evolution of fiscal and financial control can be linked to the country's financial system, which is affected by its shortcomings and syncope.

Financial control as a function of the public finances, concerns both the revenues and expenditures of the state budget (Goode, 2010), while fiscal control, as part of the financial control, is limited to the control of the formation of budgetary resources coming from taxes and fees. In that matter, the tax control-financial control ratio must be considered a party-to-whole ratio without achieving a strict delimitation.

Although specific studies, it has tried to conceptually delimit fiscal control from financial control, in essence, we consider that the two control systems intertwine and interconnection as follows: a) without efficient financial control at the level of taxpayers, we cannot speak of economic efficiency (Schick, 2008); b) fiscal control has the role of inducing everyone to pay their obligations to the budget, leading to the reduction of the tax burden in general, and at the same time ensuring a fair competitive climate, specific to the competitive system in a real market economy.

If we accept that the control activity is indispensable and represents a basic function of activity management at all levels, being ubiquitous in all fields of socio-human activity, then, the control activity, regardless of its nature, internal or external, financial or fiscal, preventive or subsequent, it is put in the service of improving the activities that ensure the material and spiritual prosperity of man.

We can conclude, without making mistakes, that we cannot speak of financial-fiscal control involved and effective if it does not have at its disposal an appropriate legislative framework, the result of balanced fiscal policies.

Only with a simple, clear legislative framework at its disposal, with well-defined notions and without giving way to interpretations, the financial-fiscal control can act in the essential directions of social requirements (Wambaugh, 1997), paying particular attention to concrete economic and financial problems, moving from the phase of general concerns, of the program, to ensuring the continuity of practical and efficient activity.

The control must realize that in order to make tax evasion and fraud, the economic agents are helped by specialists in the field, well paid, in order to find the most ingenious ways and means to evade the payment of taxes and fees without blatantly violating the law.

In order to be able to discover and combat such practices, the financial-fiscal control bodies must have professional training (Monk, 2012) at least at their level as well as a motivation to match.

In addition to irreproachable training and proper motivation, inspectors need legal protection from the state, as well as a legislative framework with clear, simple regulations that leave no room for interpretations of the most diverse.

Acknowledgement

Most of the ideas highlighted in this paper represent the result of my father Dobra Ioan's research, within the PhD Thesis entitled "*Financial-fiscal control under the conditions of Romania's accession to the European Union*". I thank my father once again because with his wisdom he led me to see things as they are, in their normality, because he showed me the way in life, and most importantly what love from the heart means. Thank you, father!

References

1. Andreoni, J., et al., 1998. *Tax compliance*. Journal of economic literature, 36(2), pp.818-860.;
2. Agere, S., 2000. *Promoting good governance: Principles, practices and perspectives* (Vol. 11). Commonwealth Secretariat
3. Atkinson, A.B., 1977. *Optimal taxation and the direct versus indirect tax controversy*. Canadian Journal of Economics, pp.590-606
4. Benito, B. and Bastida, F., 2009. *Budget Transparency, Fiscal Performance, and Political Turnout: An International Approach*. Public Administration Review, 69: 403-417;
5. Boros, A. and Fogarassy, C., 2019. *Relationship between corporate sustainability and compliance with state-owned enterprises in Central-Europe: A case study from Hungary*. Sustainability, 11(20), p.5653.
6. Considine, J., 2002. *Budgetary Institutions and Fiscal Discipline: Edmund Burke's Insightful Contribution*. European Journal of History of Economic Thought 9(4): 591–607;
7. Creswell, J., W., 2014. *Research Design: Qualitative, Quantitative, and Mixed Methods Approaches*. Sage Publications
8. Dafflon, B., 2002. *Local public finance in Europe: balancing the budget and controlling debt*. Edward Elgar Publishing;
9. Durkheim, E., 1991. *From the division of social travail*, Prisme Publishing House, Paris;
10. Dye, K., M. and Stapenhurst, R., 1998. *Pillars of integrity: the importance of supreme audit institutions in curbing corruption*. Washington, DC: Economic development institute of the World Bank;
11. Goode, R., 2010. *Government finance in developing countries*. Brookings Institution Press;
12. Greenlee, J., et al., 2007. *An investigation of fraud in nonprofit organizations: Occurrences and deterrents*. Nonprofit and voluntary sector quarterly, 36(4), pp.676-694;

13. Istrate, F., 2017. *Preventive Measures and Forms of Coherence Through the Fiscal Evasion Phenomenon in Romania*. Scientific Bulletin-Economic Sciences, 16(3), pp.29-36;
14. Monk, J., 2012. *Reform of regulatory enforcement and inspections in OECD countries*. Organization for Economic Co-operation and Development. https://www. oecd. org/regreform/Reform% 20of% 20inspections (accessed online: November 2022);
15. Lacriţa, N., G., 2007. *Taxation Company*, Tribuna Economic Publishing House, Bucharest
16. Munday, St., C., R. 1999. *Ideas of the avant-garde in the economy*, CODECS Publishing House Bucharest;
17. OECD, 2004. *GUIDANCE NOTE Compliance Risk Management: Managing and Improving Tax Compliance*, https://www.oecd.org/tax/administration/33818656.pdf (accessed online: November 2022);
18. OECD, 2014. *Addressing the Tax Challenges of the Digital Economy, Ch. 2 Fundamental principles of taxation*, OECD/G20 Base Erosion and Profit Shifting Project, OECD Publishing, Paris;
19. Palan, R., et al., 2010. Tax havens: How globalization really works. Cornell University Press;
20. Picciotto, S., 2015. *Indeterminacy, complexity, technocracy and the reform of international corporate taxation*. Social & Legal Studies, 24(2), pp.165-184;
21. Pickett, K.S., 2011. *The essential guide to internal auditing*. John Wiley & Sons.
22. Rosen, H., S., 2004. *Public Finance*. In: Rowley, C.K., Schneider, F. (eds) The Encyclopedia of Public Choice. Springer, Boston, MA;
23. Ruggiero, V., 2015. *Social Harm and the Vagaries of Financial Regulation in the UK*. International Journal for Crime, Justice and Social Democracy, 4(4), pp.91-105.
24. Schick, A., 2008. Off-budget expenditure: an economic and political framework. OECD Journal on Budgeting, 7(3), pp.1-32;
25. Smith, A., 2004. *The wealth of nations* (Originally published in 1776), *Book V, Ch. 2 Of the sources of the general or public revenue of the society*. Barnes &Nobles, Inc., New York, NY;
26. Secretariat, G., 1997. *Wambaugh, Directorate for Financial, Fiscal and Enterprise Affairs*: William;
27. Wagner, A., 1958. *Three Extracts on Public Finance.* In: Musgrave, R.A., Peacock, A.T. (eds) Classics in the Theory of Public Finance. International Economic Association Series. Palgrave Macmillan, London;
28. Walsh; K.,1995. *Public Services and Market Mechanisms: Competition, Contracting and the New Public Management*, Macmillan, London;
29. Wehner, J., 2010. *Legislatures and the budget process: The myth of fiscal control*. Springer;
30. Wolman, H., 1983. *Understanding local government responses to fiscal pressure: A cross-national analysis*. Journal of Public Policy, 3(3), pp.245-263;
31. World Health Organization, 2015. *WHO report on the global tobacco epidemic 2015: raising taxes on tobacco*. World Health Organization;
32. LAW no. 241 of July 15. 2005. For the prevention and combating of tax evasion, published in the Official Gazette no. 672/27 Jul. 2005, as amended;
33. LAW no. 207 of July 23. 2015. regarding the Fiscal Procedure Code, published in the Official Gazette no. 547/23 Jul. 2015, as amended.