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## Towards an Effective Structured and Predictable Taxation

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*To ensure the appropriate level of financial resources to support state institutions and activities is an ongoing concern. However, the problem had always been the extent to which the expandable portion of state revenues that can be collected without irreparably harming economic development and the social condition of the population owning material and financial goods, both as sources of revenue for the state. That is why, in the doctoral research I found it necessary to investigate some ways to help improve the gaps that remains in the Romanian system of taxation.*

**Keywords:** *taxation, taxpayer, funding sources, property, direct/indirect taxes, predictability, taxation system, taxation mechanism, taxation institutions, taxation policy, tax optimization.*

**JELClassification:** *H21; H26; G18; L20; L21; M41; Q28*

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### Introduction

In the doctoral research, we proposed to classify a number of issues related to current trends in the structural evolution of taxation in Romania, as well as those related to predictability of taxation. To this end, we have structured the research results in three subsections.

The first chapter deals with some boundaries on the structure and function of taxation in Romania, targeting deficiencies and dysfunctions and their consequences on the state budget revenues. On this basis, in Chapter 2

we have formulated opinions on the actual realization of an efficiently structured, functional and predictable taxation.

Conclusions found in Chapter 3 reveal the actuality of the approach for the radical reform of the taxation system and the need for a uniform configuration of the tax legislation, with appropriate adjustment of the taxation institution and taxation mechanism.

## Literature review

Issues related to the development and the operation of efficient taxations systems were addressed by a number of authors of literature, both in terms of theoretical principles and on the configuration of the bases of calculation of taxable incomes, as well as from a practical point of view, the actual ways of identifying sources of income, namely the practice of collecting them.

First, I mention Elena Iordache, Mihaela Capotă et. Al, *Manualul specialistului în fiscalitate (The Specialist's Manual in Taxation)* (2005), which treats issues related to the taxation system, budget resources, taxes, fees, contributions, special funds, tax audit, tax evasion.

Gheorghe Bistriceanu, in *Sistemul fiscal al României (Romania's Fiscal System)* (2008), addresses in an accessible style the taxation system and its role, the elements of the law that constitute the budget revenues, general principles and legal aspects of taxation and tax theories.

Iulian Văcărel et. al, *Finanțe Publice (Public Finances)* (2000), addresses the economic content and functions of public finance, financial mechanism and financial policy of the state. Also addresses problems of taxes, fees, tax evasion and tax repercussions.

Lucian Țățu et. al, in *Impozite, taxe și contribuții (Taxes, fees and contributions)*(2011), shows the practical aspects of tax registration of taxpayers, their rights and liabilities and of the tax authorities, prescription in the field of taxes and fees etc.

Dragoș Pătroi and Gabriel Biriș in *Controverse actuale în fiscalitate (Current Controversies in taxation)* (2011), addresses in a personal vision the issues broadening the tax base and the confusions created, theoretical connotations and practical valences, methods, tools and tax optimization diagram, tax audit, news and relevant issues in the field of taxation.

Mihai Ristea, in *Contabilitatea între fiscal și gestionar (Accounting between taxation and manager)* (1998), addresses issues concerning

accounting and taxation difficulties in the accounting's assessment, accounting for tax liabilities in the ordinary activity of the enterprise, but also the impact of the relationship accounting - taxation on development.

Traian-Ovidiu Calotă in *Contabilitatea, de la teorie la practică, Metodă și modelare* (Accounting from theory to practice. Method and modeling) (2013), addresses aspects of recording and reporting the status of an economic entity and the accounting evaluation, as basic elements in the application of taxation.

Anca Mihaela Georoceanu in *Determinarea obligațiilor fiscale ale societăților comerciale* (Determination of companies' tax liabilities) (2011) addresses the legal nature and classification of companies' tax liabilities, joint and specific tax liabilities, as well as the rights of taxpayers in taxation matters.

Constantin Tulai et. al, in *Consumul și fiscalizarea lui* (Consumption and its taxation) (2004), addresses the general aspects of consumption taxation.

Nicolae Hoanță in *Evaziunea fiscală*, (Tax evasion), 2nd edition (2010), addresses issues related to the analysis of causes in the increase of compulsory levies volume, taxation pressure, taxation policy and tax evasion.

Alina Duca and Emilian Duca in *Soluții fiscale pentru perioada de criză* (Tax solutions in time of crisis) (2009), clarify some aspects on tax optimization, taxation of groups of companies and the role of tax consultants during a period of crisis.

Liviu Toader in *Politica financiară, fiscală și bugetară* (Financial, fiscal and budgetary policy) (2013), discusses relevant issues related to financial policy in connection with taxation policy, taxation in Romania and in the European Union.

Ana Stoian in *Contabilitatea și gestiunea fiscală* (Accounting and Taxation Management) (2001) addresses issues related to the company's taxation management, its accounting and tax outcome, accounting and taxation on VAT, as well as the economic and financial analysis in terms of taxation.

Traian-Ovidiu Calota in *Opinii care afectează performarea turismului românesc* (Opinions on the aspects that affect the performance of the Romanian tourism) (2014), addresses the issue of the performance of the Romanian tourism, including tax perspective.

## Scientific contents

### Boundaries on the structure and function of taxation in Romania

Our approach is based on the definition of taxation as "ensemble of laws, regulations, and tax rules" (DEX 2012, p. 396) definition which, by its very content, requires a systemic approach. Thus, taxation, as system, is actually a "combination of elements: principles, rules, strengths etc., dependent on each other and forming an organized whole, which puts order into an area [...] or does a practical activity to operate according to the aim pursued" (DEX, 2012, page 1024).

Specifically, the taxation system includes not only the regulator part but also the methodologies, procedures, tools and competent institutional structures to put them into practice, so to ensure the fulfillment of the main objective, which is to collect the estimated amount of revenues to the state budget.

Therefore, starting from the need for funding of the state, there are to elements of strategic level, namely, the taxation system and the taxpayers, holders of the funding sources.

The design and upgrade, depending on various factors, of the taxation system, must address three basic components. Thus, first we need a coherent taxation law, designed to ensure consistent funding to the state budget, but also to be bearable by taxpayers, to be fair, to create conditions for further increasing the number of taxpayers, and the amount of their contributions. As well, taxation laws need to be at the same time, not only pervasive but also simple, without the need for interpretations that can distort its meaning and spirit, that can be easily applied to both taxpayers and the taxation institutions, which is the second component of the taxation system. It includes all official structures at central and local level, which are empowered by law to ensure the timely and correct implementation of taxation legislation. For this purpose, the taxation institutions are the ones that put into operation the third component of the taxation system, namely, the fiscal mechanism, consisting of methodologies, procedures and tools for monitoring, control and enforcement of tax laws.

In our opinion, the way components of the taxation system are designed and how it works as a whole, have a major impact on the effectiveness of fulfilling the central objective, that of collecting revenues to

the budget. From this point of view, both at national, European and international level, there are a series of controversies, mainly related to frequent changes of the laws, of the enforcement procedures and the structures and duties of the taxation institutions, both from economic considerations (the growth of revenues), as well as taxation discipline (whose violation can lead to lower revenues).

In Romania, because of these successive measures, the taxation laws have reached in time an impressive volume and complexity, with a negative impact on the ability of natural and legal persons to understand and properly apply them, and with serious legal consequences. This drawback can be and is decreased by the gradual increase in the use of economic entities for professional services of tax consultants, obviously with impact on costs, but which is much smaller than the one generated by breaking the law. In the same time, excessive growth in the volume and complexity of taxation laws, frequent changes (lately) of the structure and powers of the taxation institutions are sometimes a smokescreen for those who elude the law and make tax evasion. Therefore, in our opinion, both the state and taxpayers should be interested in the initiation and development of a process of reform for the taxation system in Romania. This is imperative from a European perspective because our country although is still not a member of the Monetary Union, it signed and ratified the Fiscal Treaty on stability, coordination and governance in the Economic and Monetary Union, which came into force on January 1st 2013 and whose aim is to strengthen fiscal discipline in the euro zone. By signing this treaty, Romania was obliged to follow the rule of the "budgetary balance" by applying "automatic correction mechanism so that the structural deficit to be permanent below 0.5% of the GDP." We do not dwell on these issues stipulated in the Treaty, but you have to remember though that it also provides penalties and sanctions that go up to 0.1% of the GDP.

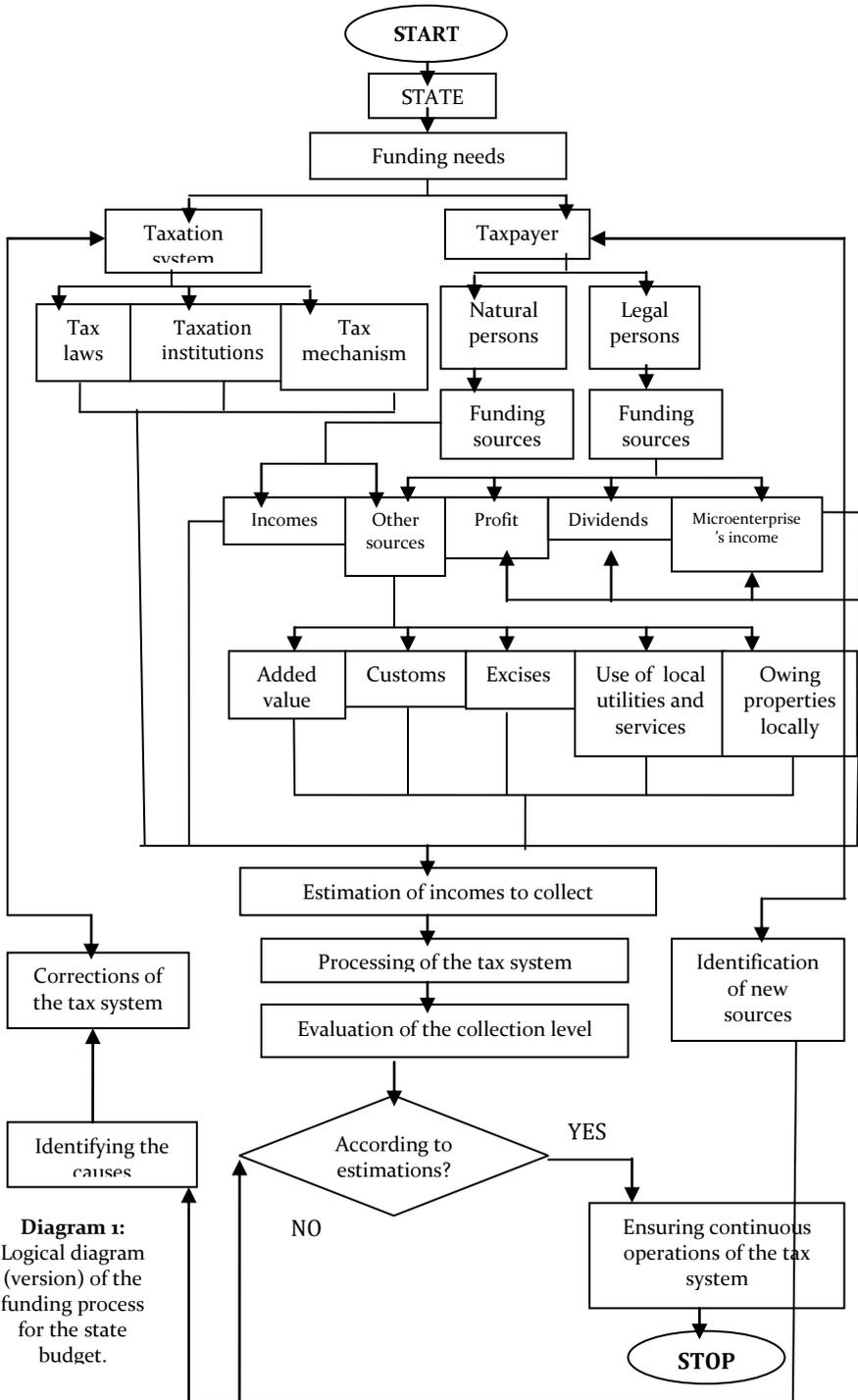
Given the reasons mentioned, we express our opinion that Romanian taxation reform should not be based only on the actions and options from institutional level. It requires a broad participation of professional organizations, a wide consultation of academia and, not least, the permanent consultation of the European institutions in relatively close perspective of accession to euro.

The second strategic element that we talked about at the beginning of our approach is the sources of funding for the state budget from

taxpayers, natural and legal persons paying the taxes, fees, contributions, etc, according to the taxations laws. Therefore, legal persons pay taxes, contributions for the profit attained, microenterprise's incomes and dividends and natural persons for the incomes attained. In addition, both legal and natural persons pay taxes for owning properties and use of the local services, VAT, customs duties, excise taxes, contributions, etc., as appropriate.

All such items are processed, evaluated and controlled in the constant interaction between the tax system and the taxpayer. Through periodic evaluation and / or when needed, we establish the level of collection related to the planned level, and if this is not achieved it triggers a double feed-back, one for identifying new contributors or sources of funding, and other, the identification of the causes of non-collection that require corrections of the tax system.

Details are shown in Diagram, in which I explained the components of the tax system, sources of funding, and the dynamic process of collection to finance the state budget.



**Diagram 1:** Logical diagram (version) of the funding process for the state budget.

## **Opinions on achieving an effective structured taxation, functional and predictable**

From the above mentioned issues, with express reference to Diagram 1, it follows that the increasing funding needs of the state budget depends on two key factors, the efficiency of the tax system, respectively, the potential of the taxpayers' funding sources. Still, results another important factor, namely the quality of the relationship tax system - taxpayer. Thus, in our opinion, harmonization of this relationship depends to a large extent, on the effectiveness of the tax system that results not only from how it is built and how it works, but also from the ability of taxpayers to correctly understand and fully comply with its requirements.

Therefore, the lack of harmonization of this relationship is one of the main explanations of malfunctions and deficiencies mentioned earlier in our approach, as well as other shortcomings that target practical aspects of great importance, that affect the efficiency of collection. Thus, the Fiscal Code does not include all taxes and fees, some of them, like those connected to environment; labor, sanitary-veterinary field, and many more are provided by other law. Furthermore, the interpretation and application of provisions of the Fiscal Code requires joining with other regulations (laws, ordinances, government decisions, etc.), a process that in many cases exceeds beyond the competence of the general management and even accounting, cases in which the lack of specialists (in taxation) can create major security risks for the businesses. An example in this sense is the tourism sector, whose potential is not yet exploited enough, one of the reasons being the "fluidity" of the legal framework in which it operates. Therefore, "the state through authorized institutions must create and continuously adjust the appropriate legal enforcers of interest or to get as much revenue from tourism, not only through coercion (restrictions, penalties, etc.), that must concern only the rule of law, but to a degree as high as possible, by creating an attractive and friendly framework to attract investors and tourists". (Calotă, August 2014, page3).

In our opinion, such an approach must be manifested strongly because any company "has a certain approach to bear taxes and fees, dominated by criteria of security and efficiency" (Ana Stoian, 2001, p.14). From this point of view, we consider that it requires an explanation, namely that the appearance of "friend" of the legal and conceptual framework

should not be necessarily understood a very low level of taxation (which is very hard to achieve), but first of all, stability, simplicity, consistency, fairness, predictability and the right attitude of the taxations institutions, crucial elements in encouraging the businesses and thus, encouraging the growth of the tax base. Also, encouraging businesses can and must be achieved by flexibility of the fiscal framework. In this respect, is very important to practice an effective "tax relief" system, by providing incentives and tax incentives (tax exemptions and reductions for specific situations that favor economic development and job creation, delays, reschedules and other incentives on taxes).

A brief analysis of the current taxation realities show that such measures exist in the law, some recent (i.e. – Social Security's reduction for employers, VAT reduction for bread and bakery products, etc.), which show a certain tax dynamics with positive effects on the collection of taxes in those fields. However, in our opinion, the effects of such measures would be greatly enhanced, if these could be integrated into a single conceptual framework that requires a reform on new bases of the entire tax system, because any change to the current legal framework, even when beneficial, leads to the increase of the volume and complexity of it, with the consequences mentioned above.

Of course, the debate of these issues can be much larger, allowing to include many other examples, but in our opinion, will not essentially alter the conclusions we have reached on the imperative need to approach taxation from the perspective of a new structure with a more efficient and predictable functionality, and at the same time, in a better harmony with the accounting management of the company. In this way, besides the advantages mentioned above, we will significantly improve the "traditional image of taxation as an instrument of coercion" (Ristea 1998, page 10), including a more efficient connection with accounting in the process of "collecting, processing, use and reporting of information related to position and financial performance "(Calotă, 2013, page 35), the information being the" raw material "used (Calotă, April 2014, page 7).

Based on the considerations mentioned and the controversies on this issue, subject to debate in the media, attended by representatives of academia, political and business media, it is increasingly foreshadowed the imperative aspect of starting a radical reform of the tax system in Romania,

while reevaluating on scientific bases the configuration and potential of the funding sources of the state budget for all categories of taxpayers.

Therefore, the reposition on new bases the taxation in Romania is inherent. It must start from the realization of uniform tax law, which includes all taxes, fees, contributions, etc., to be charged to taxpayers, to contain a terminology and definitions widely accepted by the academia and professional organizations in the field (CECCAR Chamber of Tax Consultants Chamber of Financial Auditors and ANEVAR). Also, the uniform law should include all elements relating to the payers of taxes: tax bases, income tax rates (absolute / relative), uniform tax forms, deadlines and verification forms, payment deadlines, increment and penalties, control procedures to identify unreported and undeclared income sources, effective procedures and instructions for finding and sanctioning offenses and crimes etc.

At the same time, the base of the entire endeavor should be a medium and long term strategy on predictability of the subsequent changes and the effects of their application, starting from the premise that any change that was not forecasted by this strategy should be truly exceptional and only after a thorough risk assessment. The changes that will be required by this strategy should aim two essential aspects: stimulating economic development and, thereby, increase the tax base, respectively, prevention or, if necessary, sanction of non-payment of liabilities to the state budget.

Hence, in our opinion, a new tax system will include a uniform law composed of the Fiscal Code with the implementing rules and the Tax Code with clear and stable provisions of the taxation institutions and taxation mechanism, and any subsequent amendment to be made on the basis of the uniform strategy that we talked about and by the inclusion in the Fiscal Code, so that it eliminates the related laws. In other words, any provision with fiscal impact will be subordinated to the Fiscal Code and after its adoption to be included in an annex to modify it, just to know the evolving changes and, respectively, to prevent any mismatches or inconsistencies .

## Conclusions

The issue of structural, functional and predictable efficiency of taxation in Romania is the most current debate, also reflected in the more frequent and reasoned political, business and academia media. The motivation of this approach is given not only by the legal issues arising from the volume and complexity of the current tax laws, but to a great extent, by the lack of effective decisions to stimulate the economy or / and ineffectiveness or even harm of the measures already taken.

All these require a radical reform of the entire taxation system, so to eradicate deficient aspects by projecting a modern, uniform and effective system, in accordance with the national strategy of economic and social development in European context.

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