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**THE TAX EVASION AND ITS IMPACT
OVER THE FINANTIAL EQUITY**

- PHD THESES-

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INTRODUCTION

The volume of the state resources (the public revenues) is conditioned of the following: the size of gross domestic product, the level of public spending, the monetary and demographic factors and those social and political as well etc. In what we are concerned, we consider that also the tax evasion represents an important source for public revenues. "The social" seen as the sum of relationships between state and its citizens influence the size of the state resources because the process of raising resources is dependent of the tax system. The tax system is not randomized but it based on recognized principles and often they are legislated. One of these principles refers to the tax equity, I mean the establishing of the fiscal burden depending on the contributors' capacity of contribution.

Although till now "the philosopher's stone" which could resolve the issue of tax imposition in a framework of absolute fairness has not been found yet, we consider that through this research work we bring a modest contribution to...the improvement of this system. There are no ideal tax systems in the modern world free of inequities but their improvement in this direction represents a desideratum of the modern states.

During almost 25 years of practice in the fiscal field we were in the middle of "the confrontation" between contributors and the regulatory tax system. In this way I found a big gaps in the "thinking" of governments in power regarding the resource inventory. The solutions of increasing the public revenues "were found" especially in the increasing of the fiscal pressure and less in ...the reduction of the escapist system, so this kind of decisions have generated a series of social inequities.

During these years I have noticed that the tax system seems to be an endless series of mysteries and dilemmas after difficult to be solved whose effects can produce major systemic distortions from an economical, social and political point of view. Why? Because often the state is not able to collect all its revenues and the contributors do not succeed in establishing a correct, efficient and pragmatic communication with the statehood in the fiscal relationships.

The mystery of the tax system for citizens results from the depersonalization of the taxes doubled of the general aversion for the obligation of paying without any benefit of a back service. *The dilemma* refers to "the situation" of opposability of the two sides: the state proposes to collect increasing revenues and the contributor-citizens want to pay as less as possible. This indicates the contributors' feeling of inequity that consider that are stolen whenever the state "introduces its hand" in their pocket to tax their incomes. The above reveal the opportunity of this research.

The originality derives from at least the following reasons:

- the tax evasion, a subject which was "milled" and "strained" through the thick "bolters" of exceptional minds, at a first site they left few innovating solutions in this field of activity but still..., I found especially defaults of economical represented content till nowadays;

- the principle of the fiscal equity was not “enjoyed” (of theoreticians and especially the artisans of the fiscal system) of an adequate attention of its importance till now, that’s why I thought that it is a proper “field” to develop a series of concepts and analysis using my theoretical and practical knowledge I have already accumulated.

- Making evident the interdependent linking between the fiscal evasion phenomenon and the fiscal equity was a new challenge, being of an absolute novelty.

- The social protection exercised on the public expenditure account by state brings about not only dissatisfaction, but especially increasing economical and social inequities and discrepancy; From this reality I created an alternative system of social protection generated of... the system of the imposition of incomes.

The structure of this work was “imposed” by the achieving goals.

This was done by “obtaining” some argued answers, at least at the following questions:

- Does a general truth represent the content of the tax evasion “expressed” in the specialized literature and in the juridical regulatory system?

- Are the kinds of tax evasion even so those “expressed” in the actual specialized literature?

- Does tax “legal” tax evasion exist? If so, which is this, if not, where is the confusion?

- Which are the demands of the fiscal equity principle and if its consideration in practice is real?

- Does exist a certain dependence (or independence) between causes and effects of tax evasion and those which generate inequities in taxation system and how does the tax evasion influence the practice application of the fiscal equity principle?

- Identifying the relationship between tax evasion and fiscal equity, what is hidden behind the expression “the state is a bad administrator?”

- Which are the real possibilities (especially those which can be applied in practice) of social insurance by taxes?

- How can the tax evasion and the effects of the non-application of the fiscal equity principle be diminished?

- Are the activities organized against the tax evasion by the fiscal inspection in the actual system efficient?

- Does the setting up of the fiscal Court represent the “nominalization” of the fiscal relationships between state and contributors?

We think that “pay our mite” to the clearing up of some aspects regarding the tax evasion and the fiscal equity, through the answers of the above questions.

The case study realized at Maramures county level aimed the obtaining of argued answers to the above questions.

SUMMARY

The paper is structured in order to cover the following general topics, which represents at the same time the objective that we propose during the research, as well.

- **The tax evasion** – a way of fiscal avoiding – in the light of the conceptual delimitation, of forms, ways of showing, causes and effects that it produces;

- **The tax equity** - the fundamental principle of taxation – aiming at the dimensions and the conceptual defining, the agents which determine the fiscal inequity, the expression and the possibilities of perceiving the inequality from various taxes;

- **The impact of the tax evasion on the fiscal equity** – the report determination between the tax evasion and the fiscal equity, the impact assessment through the effects of other phenomena, the role and the importance of the fiscal policies in ensuring the fiscal equity;

- **The Means** which aim at: the improvement of the fiscal legislation, the management of the fiscal units, the efficiency of the fiscal inspection, the setting up of the Fiscal Court;

- **The case study** expressions and combat tax evasion in Maramures county – the support of arguments of the necessity and the opportunities of setting up the Fiscal Courts.

CHAPTER I

The theoretical foundations regarding the content of the tax evasion

This chapter comprises the presentation of the tax evasion in a broad framework of the fiscal avoiding. In this respect I followed and realized a critical analyses of the numerous significations given to the tax evasion in the specialized literature (the support for our documentation) and in the unfolded fiscal practice.

The forms of the fiscal evading are understood in different ways, but we sustain that there are only two. The tax evasion is a note of intent of the contributors in order to evade the payment of taxes and it always reduces the state revenues. This does not represent a priority for state within its fiscal policy because the repercussion does not have any direct prejudice to the state revenues.

We join to the theoreticians and practitioners from the taxation system as well, who “place” the tax evasion as being the main form of tax circumvention because its economical content represents the unlawful removal of the payment towards the state. Any avoidance of the taxes or taxable matters lead to the reduction of state revenues. Following this equation some of the quoted authors are confused during this work paper when sustain that: the facilities, the contributors’ abstinence (as an answer to the fiscal pressure) in order to create a taxable matter or a reduction of the state revenues by not rising them totally, must be seen as a tax evasion.

In our opinion the fiscal evading has two ways of manifestation: the tax evasion (the contributors' evading of taxes) and its repercussion (the transfer of the fiscal burden from the payer to the supporter). Agreeing about "the dissection" of the fiscal evading, we identified the essence of each of them separately, we centered especially around the tax evasion because this is the only which influences directly the fiscal revenues, but it has a pronounced social part as well. That's why the tax evasion enjoys of a greater attention unlike its repercussion both from academics and from the state. We sustain that the tax evasion as a part of the fiscal evading refers to the contributors' behaviour practically, and with quantifiable effects in order to avoid the paying of the monetary duties. Therefore "the magic" expression in order to reveal the content of the tax evasion is: the avoiding of paying the monetary duties to the state.

The right of setting out taxes belongs to the state. Any attempt to avoid this obligation ...is tax evasion. So the tax evasion has always character of intention because each contributor's wish is to keep his income as much as possible for himself or to "protect" his taxable income of taxation. To demonstrate the intention of circumvention is "a juridical necessity" often evoked in the claim department successfully used by jurists who defend the tax dodgers which avoided the paying of their taxes. But all these do not mean that the avoiding of taxes is not made with intention by the contributors. The character of intention still represents one of a multitude of ways the tax dodgers escape of punishment. Starting from the premise that some facts and actions that rules to a reduction of the public revenues they should be included as tax evasion., we proved that **it can not be considered tax evasion:**

- the contributors' "reticence" regarding the tax law; Under the Constitution the law is obligatory whenever they like it or not so it obliges the contributors to pay, **their acceptance is not asked** because the law is not tradition. The failure obligation imposed by law entails severe penalties for the contributors from the state representatives.

- "The contributors' flight of taxes"; Irrespective of the way or form the tax dodgers succeed in getting off the tax law this means that they got off totally or partially from the paying of their taxes, avoiding the law and what it has already established.

- The fiscal facilities – are the facilities of payment that the state offers to the contributors by its fiscal policies. It is true that the beneficiaries of tax cuts pay less than others but this happens with the state will and this is not a way of avoiding the payment. The same thing happens when the contributors' fiscal burden is facilitated with so named "bubbles of oxygen" for a financial "revive".

- The abstinence to create the taxable matter; The entrepreneurs' acts in the market economy begin and end in a very careful calculation which aim to efficiency, generally synonymous with a maximum of profit. As the taxes "effectuate" the profit it is to understand the contributors' "care" towards the tax system from a country or another, from a geographical area or another, when they decide to invest. They will invest where there is a maximum of efficiency, and why not in a place where the profit is taxed as small as possible. According to this entrepreneurial "*system of thought*" it does not mean that through their

decision to invest in a domain where the taxation policy is higher, they avoid the paying of the taxes, so the decision of not investing can be the result of a high taxation policy, but this is not considered the avoiding of taxes.

• The reduction of the budgetary revenues not collecting them entirely; When the state reduces by law the tax rates, reducing them, the budgetary revenues are naturally reduced but we can say that this measure (sometimes of fiscal relaxation) is the avoiding of paying the taxes. All the contributors will pay less by law and they only respect the law. We do not think that there are contributors that want to pay more to the state.

CHAPTER II

The types of tax evasion

The tax evasion is treated in the Romanian specialized literature after 1990 as having two **types** whose criteria of discrimination is represented of the juridical status. The quoted authors from this chapter say that the tax evasion is:

- a). legal, so tolerated by law or protected by law and
- b). illegal, illicit or fraudulent;

We do not have any reason to share this way of “classification” and that’s why I demonstrated that the tax evasion has two forms of manifestation, and these are:

- a). The fraudulent evasion or the tax evasion and
- b). The legal evasion or the tax evasion which appears when the contributors use “the gaps” of the law;

Avery interesting subject regarding **the types of tax evasion**, we are able to formulate the following statements:

1. The opinions of different authors regarding the forms of the tax evasion, even when they are reported to the provisions of the law, they make references to the tax evasion, which they call illegal or illicit and to the legal evasion they say legal and licit.

We consider that this confusion derives from the following **interpretation**:

- a) any reduction of the public revenues would be synonymous with the avoiding of paying the taxes towards the state;
- b) the avoiding of the public revenues without breaking the law would be permitted by law, so it would be legal;
- c) if the law does not sanction a certain type of avoiding to pay the taxes, this means that it permits this in a legal way.

Reporting tax evasion to the legal framework there are no doubts that all the forms of avoiding to pay the tax, those which are ...Known would be sanctioned. Are those ways of avoiding the law which have not been “anticipated” yet in the corpus of the law and are they used by contributors? Either they have broken the law, or they have turned in good account its gaps we deal with an avoidance of the law. But according to the law, the avoidance consisting in breaking the law implies to infringe the legislator’s will in a fraudulent way, while the capitalization of the law does not mean “to break” the law but a way to ensure a profit using the gaps and the lacks of the law. So it is accomplished without

fraudulent means, more in a legal way. In this case we deal with the legislator's incapacity of anticipation in the economy evolution and also the contributors' ingenuity of finding new ways of finding "loop holes" of protection of their incomes or goods.

2. We notice that the basis of the facts of tax evasion (legal or illegal) constitutes the source of the disputes, the ideological controversy but also the confusions in tackling the tax evasion. There is no difference between fraudulent evasion and tax evasion because the deed of breaking the law is synonymous with infringement of the law, fraud and offence. These terms have a broader content and they refer to a broader infringement of the law which contain also the tax evasion as a form to avoid the law. The fraudulent evasion refers to the breaking of the fiscal law and also to the tax report between state and contributors, as a usual term but also as the way it is presented in law.

Those who second the existence of the legal tax evasion, we think that they omit to see the illegal character of avoidance to pay the tax burden, it defines the essence of the tax evasion so we second that they ignore its economical content. The avoidance to pay the taxes is made generally by breaking the law and infringing it, so we deal with a type of ... **fraudulent** evasion which can be only illicit. We can not talk about a legal breaking of the law, even if we can talk about a certain way of avoiding to pay the taxes when the loop holes of the law are used by contributors. We are in a paradoxical situation: the action of using the loops holes by the creditors represents an avoidance but...they do not break the law! Could we talk about tax evasion? We say firmly NO because we talk about a **non-fraudulent evasion**. Our opinion is that **any avoidance of paying the taxable burdens towards the state is fraudulent evasion**, and the avoidance by using those situations which were not predicted such as the loop holes in law by the legislator is not a legal avoidance but a non-fraudulent one because the legislator's will has not been violated. The term "tax evasion" is first of all a literary nonsense but also a juridical contradiction: evasion (to allude, to steal) and legal (to observe the law, with the legislator's will). We do not think that the legislator have foreseen fully aware of this, modalities of avoiding to pay the tax burden towards the state as opportunities for the contributors. Maybe the law is not complete, or maybe they have not included all the stages where to accomplish the taxable taxes or maybe the contributors' "discoveries appeared in order to avoid the law, but we do not think that we could talk about a will in legislating the theft from the revenues of the state.

3. We have already presented the evolution of the ways of avoiding the law during the last 10 years, this shows us that they developed differently from not declaring the activities to falsify the statements, from not declaring the incomes to asking the refund of taxes.

Showing the ways of avoidance, taken from the fiscal practice that we have already exemplified, by classifying the categories of taxes and giving details about the main actions of taxing, we showed that the implicit intention of breaking the law. Or the intention of breaking, fraud the law exclude... the legality. This demonstration sustains that our statement that **a form of evasion**

can not exist without breaking the law and at the same time to be...legal. Not being considered avoidance, it is not evasion and it is not sanctioned by law. The attention of the treasury for this type of diminishing the states revenues is not a special one because it is neither sued nor quantified. The deficit from the revenues budget that tax evasion produces by using the loops holes of the law is quite significant in the general equation of the revenues. The taxpayers' extraordinary ingenuity actions to "protect" their incomes makes the fraudulent tax evasion to be extremely widespread and always active, being in a continuous "adaptation" at "changing" from economy, to the fixity of the fiscal body going towards the identification and to combat this phenomenon, at the fiscal pressure. We consider that the study of the tax evasion can incite both the theoreticians but especially the governors in their continuous race for revenues and to clarify the facts which lead to the theft revenues and to sanction them.

4. After I have made some researches regarding the tax evasion I noticed that the bigger the sanctions for tax evasion are, the balance between fraudulent evasion and that non-fraudulent, the smaller the tax evasion is.

The heterogeneousness of the methods and the processes used by the tax dodger are the result of the interaction among the demands of the tax system with which the process of globalization come into contact. That's why we appreciate the action of giving a special attention to the non-fraudulent evasion.

I have not noticed any care regarding the identification and the quantification of the non-fraudulent evasion during my research, because the treasury "do" only the forms of avoidance sanctioned by law, the only to which they can apply the law.

From our presentation of the manners of manifestation of the non-fraudulent evasion, we showed that this can be identified and measured using the mathematical methods of exploration. The effort of the fiscal body could be found in: additional revenues to the budget, the ensure of the generalization imposition, a growing of the efficiency of the declarative type system and a more important tax equity. One condition should be accomplished in order to achieve the goal: there have to be a will in this direction from the Ministry of Economy and Finance side.

We identified a "packet" of measures created to reduce the phenomenon for both types of tax evasion and for a plus of revenues on the one hand, and on the other hand the improving of the declarative system that we are going to present in the next chapter.

CHAPTER III

The causes and the effects of tax evasion in the Romanian practice

Even from the beginning we considered that we should deal with the tax evasion as a **financial phenomenon** in order to assure a certain sufficiency in approaching of the causes and effects of the tax evasion.

Why? Because it corresponds to the conditions of existence and action of a phenomenon, and the understanding of the ways of manifestation rule towards the identifications of the causes that generates it but also to its effects.

a. Regarding the causes of the tax evasion:

The approaching of this research on this “scheme work” allows us to identify some inadvertences regarding the ways the causes of the tax evasion are emphasized in the specialized literature in balance with those found in the fiscal practice.

Thus, the theoretical study and the work in finance have led us to a first **conclusion** regarding the tax evasion: the causes of the tax evasion are represented both to the theoreticians and to the practitioners in the fiscal field, so they are “overlapped” over the modalities of manifestation of the phenomenon. From this point of view we consider necessary and useful to define, to group and to analyze them.

First of all we consider that the fundamental cause of the tax evasion is the purpose itself because it carries out: “the protection” of the revenues of the taxes, doubled of the material profit waited of each of the tax dodger depending on their capacity of taking a risk.

Therefore we have the relation: the capacity of taking a risk determines the material profit which assures a certain protection for the contributors’ incomes.

The knowledge of this relation offers the possibility of diagnosing and evaluating of the taxable phenomenon, and the establishing of the action lever even if it can not be diminished though it can be controlled.

We say that: **the tax evasion appeared at the same time with the state and it would disappear together with it.** Could it be the state an abstract entity and the cause for tax evasion? In a broader sense we could answer that through the existence of the obligations imposed to their citizens. If they are not “obliged” “to share” their income or their treasure with the state, it is sure that we would not talk about tax evasion and in thus the essence of the tax evasion would disappear: the avoidance to pay. So the contributors’ obligation of paying is cause of the tax evasion and why not an essential one. If this cause disappears it is sure that we would not talk neither about others and nor about the effects of the tax evasion because the tax evasion would disappear.

The state exists even if some think that it is... a necessary bad or a benefic agent- essential for others. As the state can not exist without incomes, taxes and the contributors’ avoiding of paying will coexist.

The association of the fiscal causes with the ways in which the evasion is produced, we consider that it precedes the concept of cause of tax evasion, argued by us. Thus some authors consider that “the incorrect and incomplete leading of the evidences regarding the determination of the expenditure, incomes and fiscal obligations represent a cause of the tax evasion. In this stage we identified at least 4 (four) types of avoidances to pay the fiscal obligations:

- the incorrect and incomplete management of the bookkeeping,
- the increase in price of the deductible and non-deductible expenses,
- the not registering the incomes,

- the non-payment of the fiscal obligations.

At the basis of each of these proceedings of avoidance are one or more causes. Judging in this way, we are sure that we do not commit an error if **we do not agree with this type of opinions** and we sustain that the identification of the causes of the escapist phenomenon must be made in another place, temporary anterior to moment of the beginning of the action, the “application” of the “techniques of work” by the tax dodgers.

The contribution that we consider to bring to the identification of the causes of the tax evasion refers to the following:

- • The *classification* of the causes of tax evasion depending on their nature and the relation that it has with the contributors or with the fiscal body;
- We “place” the causes of the tax evasion corresponding to their nature: a subjective and an objective one. We identified a group of objective causes as they can be found in: legislation, economy or financial blockade. In another category considered subjective by us we group them in accordance with their belonging to the contributors and to the fiscal body. We consider that this classification corresponds better to the demands of delimitation of the tax evasion causes. They can be more efficient knowing better the origin of the tax evasion and the ways of combat the escapist phenomenon.
- • The *apparition and the dependence of the causes*; some of the causes being known and eradicated by the fiscal body, the effect represent a reduction of the escapist phenomenon. In the objective category we refer to: the legislative escapist incoherence and instability, the economical instability and the financial blockage. The fiscal procedure asks the fiscal body to propose measures of adaptation of the fiscal techniques and of improving the legislation whenever they find something that it does not function in the financial body.
- • *The specificity of the subjective causes*; In this category we consider to be suited to be treated the influence that it has over the escapist phenomenon: the underground economy, fraudulent bankruptcy, the existence of the fiscal paradises. The compilation of fiscal studies with the theme the influence of the subjective factors over the proliferation of the escapist phenomenon would permit the governs to identify and to apply to be legislatively correct or other measures to avoid these causes. For instance we refer to the restrictive measures taken by France regarding “the accessing” by the contributors of the fiscal paradises.
- • *to bring in the attention of the “professionals” in taxation of the psychological factors which accompany the generating causes of tax evasion*; The escapist phenomenon has the characteristics of human, methodical rationality: the man elaborates the methods, adopts the way and uses the way of manifestation to reach his goal. We are convinced that the best planning of the actions of fiscal inspections but also of publicity of the discovered and finalized cases, a part of the tax dodgers would give up to the tax evasion.

- • *the capacity of assuming the risk – the primordial cause of tax evasion*; in our opinion this cause is very important in taking the decision of fiscal avoidance by the contributors. The consideration of the capacity of assuming the risk is essential in establishing the value of the sanctions for tax evasion and its mission is to reduce “the motivation” for tax evasion.
- • *the mathematical model in appreciating the contributors’ capacity of risk*. The assumption of risk can be mathematically determined, when a new decision of introducing new taxes is taken to modify the quotes. When does a contributor assume a risk? When the report cost / profit viz. sanction (punishment) / expected income is favorable for the tax dodger. The capacity of assuming the risk can be mathematically determined using the already presented model. Our practical experience allows us to affirm that we have undisputed arguments not to make a mistake, that this report is decisive: if the tax dodger is to the bad, the tax dodger gives up.
- • *the activity of inspection – as a decisive factor to identify the causes of the tax evasion and the management of the escapist phenomenon*; This type of preoccupation can be the professionals’ “attribute” and they must be stimulated and encouraged in practicing their profession. “The master learns the servant who steals”. This maxim as old, so actual and realistic can be. The implementation of the fiscal norms can not be made by amateurs. We need professionals selected on these types of criteria and a competitive management made by moral and well-motivated people. We are allowed to appreciate thanks to our practice that the application and the compliance of the law can be efficient and correct only acting so.
- • *the existence of corruption phenomenon in the fiscal body*; The existence of this calamity becomes a subjective cause of tax evasion and one quite important. In many cases the inspectors were those who urged the contributors to tax evasion falsifying the accounts, especially when it is about the returning of taxes for the budget.

b). **About the effects of the tax evasion**;

The **effects** usually are of financial nature consisting in a direct and proportional diminishing of the revenues with the proportions of the extracted sums. We said usually because we noticed that there are also other categories of effects others than those of financial nature. About the effects of the tax evasion, there are also other opinions according to which it would be benefic having the capacity to stimulate the formation of the capital orienting the damages of not receiving totally the revenues towards the official economy. Other say that the tax evasion encourages the economy and the investment. Another opinion regarding the effects of the tax evasion refers to the “speed” they appear, those positive and immediately noticed and those “bad” which are indirect and gradually.

We think that the effects of the tax evasion are always negative and they are noticed direct and immediately in the budgetary revenues and of course indirect and gradually in economy, politic and society. We research the concept of effect and especially that of the effect of the tax evasion to demonstrate our supposition. We have chosen that because the effect supervenes and it is produced, it is a result or a consequence of a cause. Thus we succeed in

emphasizing a certain scheme, many effects without those financial broached by the specialized literature.

The effects of tax evasion are the effects of the causes which generate them and the stimulating, accelerating and diminishing factors during its trajectory. We have grouped the effects of tax evasion in two groups depending on the topic receiver and their nature: the state (economical, financial, political and social) and the contributors (economical and financial). Till now we have considered that the acts of tax evasion bring prejudices to the state and the contributors gain. Our research rules us to the conclusion that the results of the tax evasion bring prejudices to the contributors too, through its secondary and collateral effects.

We proceeded to the following aspects taking in consideration these points:

- “the classification” of the effects of the tax evasion depending on their nature such as: financial, economical, social and political;
- “the emphasizing” of the effects as a part of the fiscal report: the state and the contributors;

We consider that we made developed the study of the tax evasion through this classification, in the sense that not only the state feels the effects of the tax evasion but also the contributors that represent a part of its causes in the primordial stage of the phenomenon.

- the determination of the impact of the tax evasion concerning the economical sector – we can notice the effect in the unfair competition that the tax dodgers manifest against the other contributors;
- the insufficient financing of the social projects – in fact we talk about the retrieval of the general effects of the tax evasion from a social point of view: education, culture, administration, health, etc.
- the identification of the political effects – the non-achievement of the state revenues because of the increasing of the tax evasion leads to an increase of the fiscal pressure, dissatisfaction regarding the politicians which will not be elected to the next election.

We subjoin to those who consider the fiscal pressure the main cause of the tax evasion. We go further on considering that the fiscal pressure both as **cause and effect** of the escapist phenomenon. The association of the fiscal pressure as cause and effect have to compel the attention to those abilities as when they decide to increase the fiscal burden, to proceed to draw out and to analyses very careful the studies of impact already taken regarding the escapist phenomenon.

CHAPTER IV

The impact of the tax evasion over the tax equity

The research of the fiscal inequity and of that generated by the tax evasion have at the basis a simple question: **why have not the Americans introduced the value-added tax?** The seventies were characterized of polemics among schools of economics being very controversial. The puff of the

productivity regarding the VTA left the artisans of the American fiscal system speechless.

Does this country really not need big resources, and cheaper taxes with a high fiscal efficiency. For sure YES. But this not in any way and in any conditions in other words not with “the price” of intensifying the inequities from the tax body. The American fiscal body is recognized for its efficiency and the reduced number of fiscal inequities. This happens because the budget is formed on the basis of direct taxes which in report with the VDA (the most inequitable revenue, especially where the prices of the large consume products saddle.)

The problem of the fiscal inequities appeared in the fiscal practice about the elimination or the diminishing of some privileges for some social classes or for some financial obligations towards the state. The bourgeois idea of fiscal equality asked each of the citizens to establish a fiscal burden direct proportional with his fortune or with his income even since 1789. Probably the fiscal equity is understood differently being identified with the following terms in the specialized literature: fiscal equality, fiscal justice or fiscal fairness. We have analyzed the conceptual dimensions regarding the fiscal equity and we delimited this concept taking in consideration the authors’ opinions regarding this subject in order to answer to the question if each of the terms refers to the same concept.

The concept of fiscal equity is emphasized of its **contributive capacity** that we have to take in consideration when the taxes are established for the citizens. The terms we have already mentioned are not sufficient for the asking of equity.

The fiscal equity reflects “the injustice” in the fiscal matter, so the application of justice into the fiscal reports are made depending on the contributors’ “position” as privileges for a certain category of contributors. As a mathematical equality the fiscal equity means equal taxes to equal incomes, but a personal equality of the contributors. The fiscal equity is a concept, a certain thinking and action above justice or the mathematical equality which ask that justice and equality in the process of imposing to be “doubled” of the contributive capacity of consideration.

We have to mention at the enunciation of the concept of fiscal equity that: the taxes have to be established in such a manner that they have to take in consideration the contributive capacity of the citizens of the state. How can this thing be achieved? At least through the following three modalities:

- the utilization of the progressive and multiple progressive quotes of taxing on blocks of income whose number to be as big as possible (we have already mentioned that a minimum of ten would be necessary to assure a slow progressive income tax);
- the level of the direct taxes should be bigger than that of the indirect taxes in the budgetary forming;
- the establishment of a minimum non-taxable for some categories of contributors and incomes.

The fiscal inequity is a perception of the feeling of injustice for the contributors, besides their obligation to pay taxes to the state. The fiscal inequity is generated of the way they perceive the process of taxation, the manner the

taxable matter is evaluated and the way the taxes are eliminated. We noticed a different perception over the fiscal inequity regarding the indirect taxes confronted by those direct. The indirect taxes are “perfidious” regarding the fiscal equity through their way of establishment and collecting. They do not take into account at all the contributive capacity of those who pay them being dependent of expenditure. We noticed a series of inequities in the process of deciding and collection the taxes on income.

We found out a series of expressions during our research which treat the fiscal equity: the fiscal justice, the fiscal right or the fiscal equality. These terms were used in our approach with the concepts maybe from our wish to emphasize more the importance and the function of this principle in the fiscal taxation.

We sustain that the justice appeared from the need to separate the equity of inequity and its actions according to the law. So justice have to ensure the equity by applying the rule of law. As the rule of law is extremely vast and it refers to all spheres of life economical, social and political we notice that the dimension that can be given to the notion of equity: economical, juridical, social, political and why not...fiscal.

The equity establishes the rules at the basis of which justice must be applied. The right of establishing taxes belongs exclusively to the state, but the way these rights are applied into the fiscal reports, do they respond to the needs of equity? The main mission of the fiscal equity is “to correct” the law where it has deficits.

Some authors affirm that the fiscal equity would be an equality in front of the taxes, I mean that to each of the contributors must be applied a treatment without discrimination and a neutral tax. This type of equality would be possible when all the contributors would have the same income, fortune and they would have the needs to cover, what is not quite impossible. That’s why we affirm that we need a certain “equality” of the personal situations before the imposing and not before the system. This balance of the personal situations it is possible applying exactly the demands of the fiscal equity: the contributive capacity where there are included both the level of the income and the needs that have to be pay.

Regarding the fiscal equality, our opinion is that this represents more a technique of imposing, a means through which a practical fiscal rule is applied, a “dry” and “cold” rule through which the taxes are calculated. Or the fiscal equity is an ethical principal which refers to the fiscal humanism which should be present in the process of taxing.

However, we name the equity in our every day language, when it refers to the taxing and must be understood as a moral conduct which refers to a certain equalization of personal situations by establishing the contributive capacity, so we must pay attention to the imposing process and to the personal needs, at the same level of income. We think that the terms of substitute as justice and equality does not signifies the essence of the tax evasion as we have already demonstrated in the previous chapters.

We will synthesize the results of our research characterizing this part of our work as being **new** in our approach of the tax evasion as follows:

- The fiscal equity represents the affirmation of the general condition of establishing taxes according to the contributors' contributive capacity. This must be rationally estimated through: the contributors' fortune, income or profit to which are added their personal financial situation regarding their minimum needs of existence.

- We have already demonstrated without equivocation that the tax equity is "eclipsed" by the application of all post-Decembrist governs of the principle of fiscal efficiency and this "balance" of the taxable principle leads to the emphasizing of the fiscal inequity, the increasing of the tax evasion and the diminishing of the fiscal efficiency. These "results" imposed different measures of increasing the fiscal pressure by governs, and this way the "fiscal spiral" goes on.

- We identified and presented the effects of the fiscal inequity following its way of manifestation in the taxable process and we emphasized the two types of taxes: direct and indirect, all of these in order to prove that the principal of fiscal equity is not a desideratum for "artisans".

- If till nowadays it has been speaking more about the fiscal equity especially for indirect taxes, we have presented that its effects upon the direct taxes, the income and fortune as well. We identified a part of the "weak points" of the taxable system to those two types of taxes, exemplifying with examples from the fiscal practice.

- We think that we have a contribution to support the decision factors from our country, to reconsider the role and the importance of the fiscal equity in the process of taxing and to respect this principle at least from the perspective of being Europeans, all these by presenting the preoccupations regarding the fiscal equity.

- The other side of the fiscal equity is the fiscal inequity, namely what the contributor feels during the process of taxation. The equity is more difficult to be appreciated, while the inequity is perceived by the tax payers. How do the contributors perceive the inequity, how can it be measured or identified? Look a series of questions that we consider we have already answered with a proper demonstration, without any possible report to a research on this theme, because we do not have any.

- Any contributor feels swindled when he has to pay taxes. This does not really represent an inequity. But if at the same income, having a different familiar situation, the inequity is perceived more acute even when it is "corrected" by same personal deductions. We have demonstrated and exemplified this subject this chapter.

- We determined the relation between the tax evasion and fiscal equity to identify the inequity, referring to the following: the place of manifestation, the way of regulation, the participating "players" and the material support. We noticed that both the tax evasion and the fiscal equity are found in the fiscal system, they are under the legal regulators (penalty for tax evasion and desideratum for equity), the parts of the fiscal procedure being the state and the contributors and the material support is represented by money.

- We have identified the impact of the tax evasion over the taxing equity through their effect for other phenomena such as: the dimension of corruption,

the practice of taxable avoidance, the increasing taxable pressure, the taxable benefit, the frequently using of the taxable paradises and of the taxable intervention. We have presented that all these phenomena are correlated to the tax evasion, affecting differently the consideration in a practical plan of the principal of taxable equity.

- The measuring of the extent of the taxable equity is possible either summing up the effects of the inequity over the up mentioned phenomena, or as an index of perception, determined by pools at the level of the tax payers.

- The importance of appreciating the taxable inequity results from the utility of the obtained information, when there is political desire from this perspective for: Parliament (the effectuation of the correction in legislation), Govern (measures of adjustment of the taxable politics and the improvement of the social order), the contributors' sphere (the increasing of the taxable civility and the productivity of the declarative system). The social order should be more important for each of the Governs. We think that an increasing taxable equity contributes in an important degree at the insurance of this social order.

- We have shown that the taxable politics has a decisive role to promote the taxable equity without pretending that is something new, but we have identified and classified the factors of influence of the taxable politics which determine and modifies the indices of perception over the taxable inequity, in **objective** (the inflation, the economy level of development, the capacity of choosing the taxable treatment "offered" by the taxable paradises different depending on the belonging to the capital- of state or private, and **subjective** a different treatment for taxes of the same category – on income and profit and the intervention of the state to "sustain" some branches or economical activities).

- We have paid an important attention to the **social protection** that can be made by taxes. How? Following the idea that "the state is not a n incompetent administrator", we have demonstrated that according to the contributors-contributing with a bigger part of their incomes by not taxing them, the cases of social protection that the state have to solve are considerable diminished. The same context, the efficiency of the systems of social protection is limited because of the bureaucracy, the log time of intervention of the state with social expenditures, the subjectivism of those who appreciate the level of the social help, etc.

The citizen will always know better how to administrate his income than the state does, on his behalf.

CHAPTER V

Means to combat tax evasion and to diminish its effect upon the tax evasion

The adoption of serious measures to diminish the tax evasion and the increase of the fiscal revenues "are asked" to each govern. Often the actions taken in this direction are superficial and they concern a solution of the moment.

We think that these actions should be initiated in a tax strategy accepted by the majority of the political structure to assure a continuity and to obtain sustainable results.

We have noticed that the approach of the means to combat the tax evasion and the increase of the degree of taxable equity “suffers” of a certain generality referring to the decisions “from the center” and they lose “the local zone” where the taxable phenomenon manifests. We are aware to affirm that any measure at a micro-economical level has at the basis *only* the theoretical efficiency in a general context. The confirmation or the denial of the expected measures take place in the tax reports, between the leaders of the state and the contributors. We notice only here the effect of the taken decision at governmental or legislative level.

Noticing this aspect, the measures to diminish the effects of the tax evasion and the diminishing of its impact upon the tax equitation thought by us have been “taken” more from tax practice, trying a certain limitation regarding the options made in the specialized literature. The options proposed by us aim especially the diminishing of the subjective nature of the tax evasion. These causes are noticed less at the micro-economical level, and even though some of them are known, till now they were not the objectives of the governmental actions. We consider that the main direction must be represented by the elimination and the diminishing of the causes which generate the taxable phenomenon: from the cause to the effect, all these to have success in diminishing the effects of the tax evasion.

We emphasize the lack of political will in taking important decisions, regarding the foundation of the Tax Court meant to “solve” an important part of the tax evasion causes.

During our research we notice a certain convergence of the theoreticians and those from taxable system’ s opinions regarding the measures which have to be taken to limit the tax evasion effects. These make references to the following:

- the diminishing of the taxable pressure,
- the increasing degree of collecting the taxes,
- the improvement of the taxable legislation,
- the increasing of the taxable duties.

We affirm that the efficiency of these measures is “limited” of the capacity of the taxable institutions to “watch over” to ensure the smooth functioning of the tax system regarding: the implementing of the legislation, the control of the way the taxes are observed and collected.

The tax legislation (The tax code) “suffers” of a certain incapacity to notice the all changes in economy, that is noticed and critiqued by the majority who “treats” the tax evasion. This default is more or less a characteristic of all the tax systems, because the economy usually “is moving” faster than the legislative. The laws are not perfect, are only perfectible, especially in the context of the opening markets and the circulation of capital. We have to appreciate the positive evolution of the laws from tax matters.

Our opinion regarding the tax legislation is as follows: the law is often imperfect and it has with or without the legislator's will "paths" through which some contributors avoid to pay the tax duties, but the great tax evasion is caused not especially by "omissions" of the law but...**the put of the law into operation.** The implementation and the supervising the comply of the law is a long process where the main "players" are: the tax system and the contributors.

During this research new argued the role and the importance of the tax system in putting the law into operation, as a generator factor of tax evasion. How? With the lack of firmness and professionalism of some officials in putting the law into operation and through a "friendship" with the tax dodgers.

We consider the metaphor "as cold as the tax law" that represents as clear as possible the lack of "humanity" of the legislation, through which the state "attempts to the citizen's pocket" in the process of taxing their income and fortune. We do not deny de need of the law firmness and the actions of the taxable body to collect the taxes from the contributors. We think that the appliance of the demands of the principle of tax equity often contributes in a decisive way at the ensuring of a normal development of the fiscal reports , to the increase of the citizens' confidence in the state institutions, to the development of the tax civic and why not to the healthy social reports.

The proposed measures are "the result" of the professional experience of two decades and a half in the tax field. We believe that the efficiency of eliminating the tax evasion and the diminishing of its effects over the tax equity is determined of the way those invested by law to intervene (the tax system with control tasks) to permanent actions based on strategies , studies of impact and programs of work.

We are not the adepts of the situational actions of elimination or diminish of the causes of the tax evasion but rather of their diminishing till the level of tolerance. Any action in force without any general strategy of action will rather affect the balance in economy (which is fragile as well) and it will not solve the aspects regarding the tax evasion only for a short period.

The conclusions of the study about the tax evasion and its impact over the tax equity guide us to a **packet of measures** to eliminate the phenomenon and the diminish of its effects that we appreciate as being efficient in the extent that the *actions must be started from cause to effects* and not as they do now, because the activity and the attention of the tax system is directed towards the penalization of the effects (a usual way of approaching according to the attributions of the tax system), and not to annihilate or reduce the causes which generated those effects.

Proposed measures by us refers to:

- *the insuring of the legislative coherence and stability,*
- *the elaboration of studies of analyzing and forecast to establish the ways of "moving" of the tax evasion,*
- *the improvement of the tax bodies' management,*
- *the increase of the efficiency of the control actions (the planning and the efficient utilization of time),*

- *the improvement of the techniques of tax control (the accent put on the identification of the tax evasion and the application of the sanctions),*
- *the elimination of the implication of the political factor in the tax activity (the invest of the managers from the tax system to be based on professional reason and not politically);*
- *the diminishing of the corruption in the taxable and juridical administration.*

The climate of “tension” between the state officials and the contributors, each of them manifesting a certain rejection for the actions of the other side, convinced us to study thoroughly our research regarding the causes which lead to this general situation.

The contributors’ repulsion for taxes is very well known, and through “the examination” that we have already made in this research beyond this reaction, we identified and represented a series of causes that emphasize the animosity among the subjects of the tax reports.

We think that the diminishing of “the conflicts” and **the set up of the Tax Court** some of the causes can be diminished and eliminated and we can hope at a certain normality among these tax reports. It depends on the political will that Romania to be among the other states with strong and efficient tax systems. Using the already mentioned “key factors” it is assured an increase of the level of tax equitation, that is so necessary in order to assure a social climate based on confidence in the state institutions, that has been very affected during the last years.

On the other side we say that an important part of **the social protection** that the state develops for some social categories would have a more important efficiency then are made through **taxes**. How? Letting an important part from the revenues to the contributors making tax facilities. This way “channels” of the social sustaining will be unblocked through expenditures which are characterized of birocratism and subjectivism.

Each of the proposed measures were developed during this chapter, emphasizing their real possibilities of application in the tax practice.

CHAPTER VI

Case study regarding the tax evasion in Maramures county

The approach of the tax evasion phenomenon in Maramures county has “support” in:

- the tax practice on different levels of putting them in practice, control and synthesis which have allowed us the access to more complete information.
- The participation in the constituted bodies to prepare the acts for Ministry of Finance,

- To go over some stages of study and documentation on the theme of taxing in the period of the carry out of the reform of the Romanian fiscal system (1994 - 2004) of foreign specialists from (USA, Germany, Spain, Belgium, France, etc.) which aimed the elaboration of the fiscal code and the code of fiscal procedure;
- The participation to lectures and changes of experience in other countries: Netherlands, Germany, France.

The targeted **objectives** we have established during this research to obtain a practical argue of the statements we have stated in this work regarding:

- *the role and the importance of the tax inspection in elimination of the tax evasion, in all of its stages (the actions planning, the findings of the tax evasion, the measuring of the effects, the application of the sanctions and the capitalization of the stolen amounts through cashing);*

- *the management impact over the efficiency of the fiscal inspection;*

- *the identification of the causes which rules towards “the tension” reports between the tax body and the contributors;*

- *the inspectors’ negative “contribution” to maintain and increase the tax evasion (the utilization of the time fund, the political “subordination”, the corruption, etc.);*

- *the tax body attitude to find solutions to the contributors’ petitions and the legal contests;*

- *the attitude of justice in the disputed claims office;*

- *the necessity and the opportunity of founding the Tax Court*

The period of analyze, that we need to determine the most important trends is of 5 years, where it is possible, we have actualized the information for the first semester of 2008.

The sources of information are true in all aspects because the most of them have been created, analyzed and certificated by me under authority service.

The results interpretation, on the basis if the presented information exceed the specific manner of analyzing the fiscal body, being in compliance with the objectives and the demands of the research theme.

Thus the **conclusions** confirm the proposed objectives regarding the causes of the tax evasion, we refer here to those which were analyzed the least till now among which the most important would be:

- the inspectors do not give proof of professionalism to score some more complex cases of tax evasion letting sometimes “the door open” for the tax dodgers. The lawyers prove to be more “motivated” and more persevering to demonstrate that the intention of fraud does not exist, even when the false is obviously.

- the excess of zeal of some inspectors who include by “force” some strategies based on using the gaps and ambiguities from law as being tax evasion, situation that rules to a vulnerable act of inspection in instance and as we have already mentioned the winner is the tax dodger;

- the planning of the controls based on “established” criteria by the hierarchical institutions (the volume of the activities, the number of the staff or the

period of prescription), do not respond to the orientation demands of the actions towards the most dangerous zones of tax evasion;

- the inspectors' time fund is "affected" by the big number of control thematic actions, the solving of the contributors' demands or of other institutions, detrimental to the general inspections that can rule to the discovery and sanction of the tax evasion;

- the establishment of "the plan of collecting" and of "a program for additional sums" by NAAF, accelerating "the rush" for budgetary incomes; in such context the abuses from the tax system appear by trying to intimidate the contributors to tolerate for any mistake the maximum of sanction stipulated by law. This attitude determined the contributors to contract the services of other financial and juridical consultants succeeding in counteracting with success the fiscal acts even when they have right. This way the hunter turns into "hunt" so some contributors manage to be "worked around" by the inspectors and that is how they do not pay a part of the taxes to the state.

- the techniques of control are not actualized with lectures of professional preparing followed by devising the inspectors' knowledge; the tax dodgers are ingenious in finding solutions which seem impossibly to be noticed by the tax body. One of these is represented by resorting to the fiscal evasion for the import-export transactions with effect in transferring the profit in a non-taxable area.

- the statements and the juridical appointment repeat for the acts contested by contributors because of the solidarity of guild in the reports of justification of the reasons from the imposing Decision; in many situations a speculated and capitalized mistake repeats with success by contributors through their representatives. The conclusion is simple: a defective management has its roots in politics in some situations, through appointing a "house" person.

Regarding the *tensions* among contributors and inspectors have at their roots aspects which determine the tax reports between the state and contributors and these can be synthesized as follow:

- a certain envy of the inspectors (among those who are not professional) reported to the contributors' material and social "position" that generate a certain "excess of zeal" in their activity;

- the planning (with no sense of reality) of the additional sum of money **which have to be taken** by inspector during one month (more than 10.000 euro).

- the existence of a certain complicity of inspectors with the tax dodgers which leads to difficult relationships with the honest contributors;

- a certain lack of understanding of the application of fine effect; the existence of the value fines between minimum limits and maximum limits, implies that the inspectors to manifest discernment in applying the sanction depending of its seriousness. Proceeding otherwise they can be accused either of superficiality, or of depending abuse.

The efficiency to combat the tax evasion is determined of the actions which must be organized by the tax body over the causes. Enough attention has not been given to the causes of these nature, during our research. The action of

combat of the tax evasion but especially its effects justify our belief that we can action efficiently in this direction.

We conclude that our proposed objectives during this research are confirmed at least the developed study case for Maramures county. We think as well that some aspects noticed by us are found more or less in the whole country, having at the basis the changes of information regarding the tax evasion phenomenon. The diminish of the effects over the causes of the tax phenomenon are dependent of the role and the importance of the inspection in:

- the fight against the avoiding to pay the taxes to the state;
- the collecting of the sums regarding the tax evasion:
- the ensuring of on optimal atmosphere to the tax reports between the tax clerk and the contributors:
 - the increasing of the tax civism;
 - the increasing of the tax equity in an equitable taxation system based on multiple, progressive quote, on several installments of income;

The independent proceeding of improving the tax activity – the recent history has proved in excess the inefficiency – does not achieve its goal.

We consider that we make clear the concept of tax evasion, its forms and especially its main modes of manifestation, without exhausting the theme.

Regarding the tax equity generated by the tax phenomenon, an important and new thematic , we hope that the subject will “provoke” at least the number of matters in dispute as the tax evasion has caused during the last years. We let the subject open for future researches but especially for those who consider that the theme is still open. We will take in consideration the critic for our future research regarding this theme.

We consider that we need a refresh of principles of organization and function so this institution to become the most important weapon to fight against the tax dodgers.

We think that we need a political decision to found the Tax Courts and we hope that those who understand their mission to support us in order to insure **an efficient, transparent and solid tax system**.

Our assumed task of approaching of the impact and the tax evasion effects to consider and apply the principle of tax equity, we consider fulfilled only partially. This type of approach, characterized of novelty regarding the tax evasion represent in our opinion a study “field” where the presented concepts can be critiqued and especially the manifestation of the inequities as a result of the tax phenomenon.

We assume our limits in approaching of this theme, being aware of the need to improve the study method and the argue of the our statements, so this subject often controversial and not used totally to represent a step towards the future researches.

We are waiting impatiently responses and cues of those who allowed me to critique their opinions (some were my lecturers) and I will take them in consideration in my future researches. It will be welcomed the critic of those who are concerned with this such important and sensitive problem of tax

I am convinced of an undeniable reality of the Romanian tax system: the main cause of tax evasion and of tax inequities can be synthesized into the following statement:

NOT the law is critical in Romania, but its inadequate put into practice !