

CRITICAL CONSIDERATIONS OF TAX ENFORCEMENT OF TAX MEANS OF TRANSPORT

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Abstract: Critical considerations in the work of tax enforcement in the taxation of vehicles are some shortcomings in the tax laws of Romania, on the grounds that it is essential not only to pursue tax law liability, but to provoke improvement. There are many areas in which tax legislation can be improved, whether the purpose of clarifying or modifying the tax system or the collection.

Starting point in developing the study was a case of practice in, this case that has raised our interest to law enforcement regarding the taxation of people who owned vehicles.

In this paper we consider mainly the Law 571/2003 regarding the Fiscal Code and in particular GD. 44/2004 for approving the methodological norms of application of the Tax Code, specifically Chapter IV of Title IX, which is regulated transport tax.

Keywords: *tax, transportation, inventory, goods, exemptions.*

The Romanian society faces, besides legislative "inflation" that we can barely keep up with, another very serious problem which gives rise to many problems, including, I might say, even the birth of abuses. We refer here to the unitary and incorrect application of legislative measures.

In H.G. no. 44/2004 for approving the Methodological Norms for applying Law no. 571/2003 regarding the Fiscal Code, as amended, Chapter IV, under Title IX is regulated the transport tax.

Also art. 261 stipulates that "If a mean of transport that is subject to a finance lease, the tax on transport is due to the tenant" questionable text in light formulation, we consider more appropriate expression: "If the vehicles that are ". But much more delicate problems arise because H.G. provides that: "Alienation means of transport, by any manner prescribed by law, can not be effected until the holder ownership of means of transport has extinguished any local tax claims, except the disputed tax liability, due to the local budget of the administrative territorial unit where the means of transport registered with payment terms due to the first day of the month following that in which the alienation takes place. Payment of budgetary obligations is attested by the tax certificate issued by the specialized department of local government authorities. Acts which alienates vehicles in

breach of this paragraph shall be null and void. "I consider more appropriate the expression "... has extinguished obligations (debts) ... "because in a simplified definition debt is a legal term.

Finally, going over the above issues we issue a particularly important issue, transport tax for legal persons selling new/second means of transport. In this respect H.G. 44/2004 states that "transport tax does not apply to:

- a) cars, motorcycles with sidecars and mototricicluirile belonging to handicapped people and are adapted to their disability;
- b) passenger river ships, boats and luntrele used to transport individuals residing in the Danube Delta, the Big Island of Braila and Ialomita Island Pond;
- c) transport of the public institutions;
- d) transport of corporates, which are used for public passenger transport services in urban or suburban system, including transport of passengers outside a city, if the freight rate is determined terms of public transport.
- e) historic vehicles as defined in legal provisions. "

The implementing rules for this article states that "taxpayers covering the production activity and / or trade in vehicles due to no tax under the head. IV of Title IX of the Tax Code (tax transport) for those vehicles registered in the accounts as stock.

Note that in the text, presented in full above, refer to means of transport belonging to legal entities for selling purposes.

The norms of Article 264 "The acquisition and transfer of the vehicles' legislature stated that the alienation of means of transport, its owner will send the purchaser the vehicle identity card and tax certificate attesting that the tax is paid for . Here the legislature has indicated that the means of transport, which were never recorded in the books as commodities producers or dealers not to send defalcation tax certificate.

The directions of local taxes noted that new means of transport, which were never recorded in the accounts as commodity by producers and dealers are not taxed. But the article refers to the exemption is 262 "exemptions" and not 264 "Acquisition and transfer of vehicles.

These provisions have generated numerous disputes, but the Courts retain the rules of Art. 262, namely that taxpayers whose object of activity is the production and / or trade in vehicles not taxed for transport which are accounted for stocks.

This thing was noted by the Court of Valcea county in Sentence no.96/19.01.2010. N company whose main activity is trade new and used cars filed an application (which is pre-procedure) to the Financial-Economic Department of the City Rm Valcea seeking for a solution in order not to pay tax related to used cars they purchase for resale. The Hall gave a response which, linking more acts to be significant in this case, consider the rules for the application of the tax code as the meaning of the exemption for new cars only, not for the run ones. Thus, considering that legal norms are violated because where the law doesn't dispose, we don't have to dispose either, the company filed an action involving the obligation to make, namely to require Financial-Economic Department of the City to apply correct legal standards. Background court correctly held that petitioner is a company whose main activity is trade new and used cars, and according to the Norms for applying to the Tax Code art.262 pct.106 taxpayers whose object of production activity and / or trade transportation provided no tax due on Ch. IV, Title IX of the Tax Code for those vehicles registered in the accounts as stock. Contrary to the laws mentioned, Financial-Economic Department of the municipality Rm Vâlcea ordered petitioners to pay taxes for cars

running on acquiring them for sale, although they are recorded in accounting for goods on behalf of 371 "Goods" and thus not liable fees incurred by defendants.

Also, the court held that against the law cited that are not subject to taxation and tax certification certificate of means of transport, and the run, recorded in accounting. As for the admitted purpose of coercing the petitioner request the Economic and Financial Department to apply the correct legal standards and correctly record run cars owned by the applicant as inventory for sale (which are exempt by law from paying car tax).

We believe that would be required from such solutions as Financial-Economic Department to make the compensation income received as a result of this tax with future liabilities.

It would also require, and a uniform implementation of regulations on tax matters, under the present being implemented by the strict interpretation of tax inspectors.

REFERENCES

1. Law no. 571/2003 regarding the Fiscal Code, as amended.
2. H.G. no. 44/2004 for approving the methodological norms of application of the Tax Code, as amended.