

## FACTORS GENERATING TAX EVASION IN ROMANIA

**Lect. Alia Gabriela DUȚĂ, PhD**  
**Iudit FODOR, PhD**  
**Octavian PERPELEA, PhD student**  
**University of Craiova**

### 1. General considerations

In the period after 1990, the Romanian tax system was built on the grounds of antithesis between the limited character, more and more restricted, of the public financial resources and the higher and higher demand for public funds for satisfaction, as much as possible, especially for some special needs. The state authority has often seen by amplification of taxation the easiest way of procurement of the public financial resources without taking into account their adverse effect, meaning that an increase of taxation generates an increase of the tax pressure and in case this becomes sultry the phenomenon of „escape from tax”, respectively tax evasion.

### 2. Factors generating tax evasion in our country

Factors generating tax evasion in Romania, but actually also in the other countries that have realized transition from centralized economical system can be presented as follows:

#### a) **Excessive tax pressure:**

Tax pressure represents the proportion of income that the contributor forced and compulsory give up for the benefit of the state as taxes and by shedding these amounts in their chargeability to the state budget, state social insurance budget, local budgets and public funds.

By analysing Figure no. 1.1. we can observe that in our country the rate of tax pressure has registered a slightly decrease from over 27,72% in 2006 to

27,60% in 2007 and to 26,94% in 2009. In 2010 the rate of tax pressure has increased to 27,12%. We think that this level is quite low compared to the rest of the states within European Union.

Despite the fact that the level of taxation in our country shows a slight decline, the businesses and the people feel, however, tax aggressiveness of taxation. Starting from this contradiction between the moderate level of taxation and the way it is perceived by taxpayers, I think we have to make some clarifications.

First of all, in our opinion, the analysis of tax pressure should not be made only by revenues collected from taxpayers reporting on primary income derived by them.

Such a calculation provides useful information for countries with stable and developed economies. In countries like Romania this report **must be correlated with the purchasing power of net monetary income and the structure of individual costs**. Thus, we can not talk of equality of tax pressure from one euro area country in which most income is accrued as savings and a country where most of the household income is spent on strictly necessary things.

Second, the approach to taxation, **in relative terms, has no relevance without a pragmatic approach to its correlation with real, material**. You can not make a comparison between the sustainable tax rates in Romania and other countries because the reporting is different.

Figure no. 1.1. Evolution of tax pressure in Romania during 2006 – 2010



Source: processing after the data provided by the Ministry of Finance and the Statistical Yearbook of Romania

Such a calculation provides useful information for countries with stable and developed economies. In countries like Romania this report **must be correlated with the purchasing power of net monetary income and the structure of individual costs**. Thus, we can not talk of equality of tax pressure from one euro area country in which most income is accrued as savings and a country where most of the household income is spent on strictly necessary things.

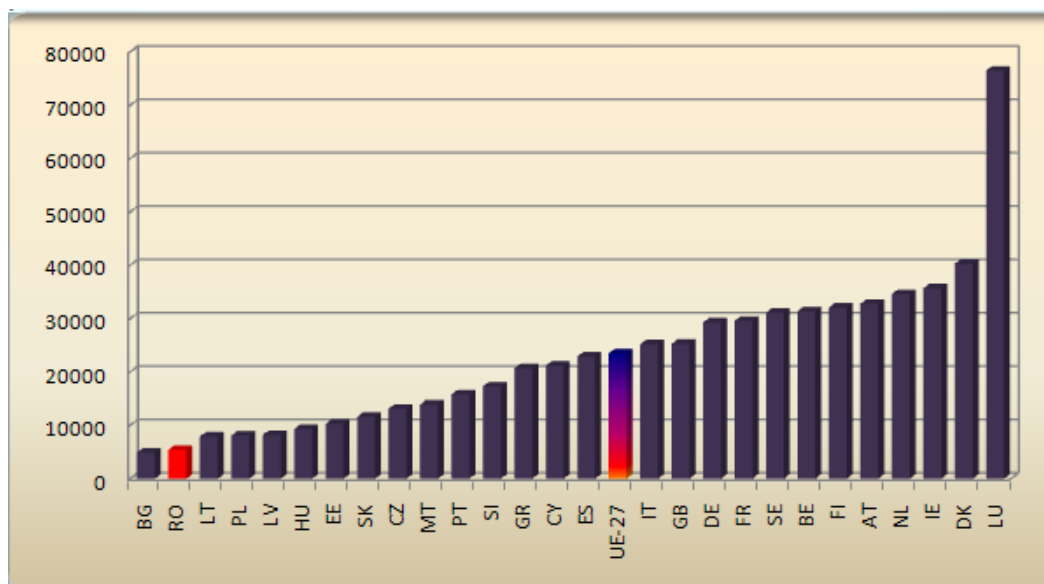
Second, the approach to taxation, **in relative terms, has no relevance without a pragmatic approach to its correlation with real, material**. You can not make a comparison between the sustainable tax rates in Romania and other countries because the reporting is different.

For example, according to estimates made by Eurostat, between gross domestic product per capita in Denmark (40,300 euros) and Romania (5,400 euros) there is a difference of 7:1, we can thus conclude that the force support taxation and effects in real terms of promoting a particular taxation rates are at least seven times higher in these countries than in Romania. (Figure no.

1.2.) Luxembourg is by far the richest country in the European Union, followed by Denmark, which still has a GDP per capita at almost half the level of this indicator registered in Luxembourg, while Bulgaria is located on the opposite side, being the poorest state in the Union, according to EU statistics. Gross domestic product per capita in our country was in 2009 almost fourteen times lower than in Luxembourg (76 500 euros) and six times lower than in Ireland and the Netherlands, by 77% below the EU average, according to data published by Eurostat.

This explains the fact that, although the degree of taxation of our country specific trend is part of developed European countries, it has a tinge confiscatorie the extent the amounts available funds remaining after tax, providing not only the means indispensable subsistence and cover, in a satisfactory degree of all human needs. This situation may result in inhibition of motivation to work and orientation "to obtain taxpayer's income on illegally evading the tax, in most cases, tax evasion represent an adaptation response to excessive taxation;

Figure no. 1.2. GDP per capita in European Union countries in 2009



Source: [www.eurostat.ec.europa.eu](http://www.eurostat.ec.europa.eu)

This explains the fact that, although the degree of taxation of our country specific trend is part of developed European countries, it has a tinge confiscatorie the extent the amounts available funds remaining after tax, providing not only the means indispensable subsistence and cover, in a satisfactory degree of all human needs. This situation may result in inhibition of motivation to work and orientation "to obtain taxpayer's income on illegally evading the tax, in most cases, tax evasion represent an adaptation response to excessive taxation;

**b) the volatility and inconsistency normative legal regulations:** the existence of tax legislation characterized by the presence of gaps, by inconsistency, inaccuracy and lack of stability over time, developing a heavy tax laws, many times, was not correlated with the actual possibilities of its implementation, often overcome economic and social relations. Existing normative - methodological inaccuracies generated the possibility of discretionary interpretation of preferential treatment in

some cases normative documents being adjusted "even further by the rules given in their application;

**c) absence of a tax code and a tax procedure code, until 2004,** indispensable to a uniform tax legislation limiting effect on tax evasion.

In our opinion, the Tax Code and the Fiscal Procedure Code still suffers from a certain inability to capture all the states of the economy, the shortage due to the fact that, as a rule, the economy moves faster than the legislature. We appreciate that laws are not perfect is just perfect, especially in the context of globalization, but in our opinion, the tax legislation in Romania is often imperfect and leaves, with or without the will of the legislature, "loopholes" through which some taxpayers pay beyond duty, but tax evasion is great not necessarily caused by "leakage" of law enforcement but it is a process in which the main "players" are the fiscal and taxpayers;

**d) corruption** (considered as being the „disease” of Romanian society): the existing companies and the persons responsible for declaration of tax evasion

is another factor that enables taxpayers to evade payment of taxes by the state.

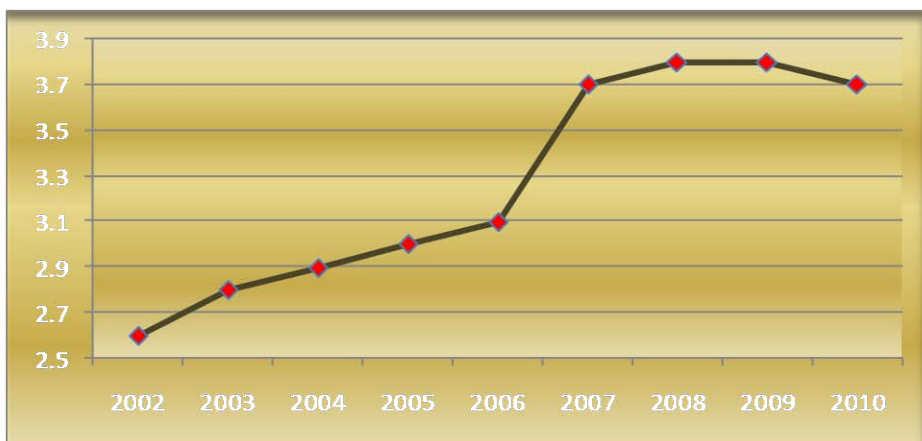
In order to assess the level of corruption, experts use corruption perception index (CPI). This is a composite index, first launched in 1995 and is based on data corruption in specialized surveys carried out by several independent and reputable institutions and ranks countries according to the degree to which corruption is perceived existence among officials and politicians. It reflects the opinion of business people and analysts from around the world, including experts from the countries evaluated and have values between 10 (highly clean in terms of corruption) and 0 (highly corrupt).

Analysing Figure no. 1.3., we see that corruption, registers a slight increase from year to year in our country. Favouring causes of this development

are manifold, from which, in our opinion, the most important are:

- bureaucracy and incompetence;
- existing large number of civil servants because of their high involvement in the economy;
- politicization of the control by management and appointment of management representatives of public authority;
- relatively high tax pressure on businesses that are subject;
- sometimes biased or arbitrary right to determine the amount of sanctions by the control bodies;
- level of economic development;
- perpetuate low living standards of population;
- lack of a national strategy against corruption.

**Figure no. 1.3. The evolution of corruption in Romania during 2002 - 2010**



Source: [www.transparency.org.ro](http://www.transparency.org.ro) - Evolution of EU Member States last year to assess the Corruption Perceptions Index

To form a complete picture about the corruption in our country, we have deemed necessary, the presentation level of this phenomenon in the EU

member countries. Thus, we presented in Table no. 1.1., Evolution of the index of perception of corruption in the countries of the Community, in 2009 and 2010.

**Table no. 1.1. Corruption Perceptions Index during 2009 - 2010 for EU Member States**

<b>Country Position</b>	<b>Country</b>	<b>Score IPC 2009</b>	<b>Score IPC 2010</b>
1	Denmark	9.3	9.3
2	Sweden	9.2	9.2
3	Finland	8.9	9.2
4	Holland	8.9	8.8
5	Luxemburg	8.2	8.5
6	Ireland	8.0	8.0
7	Germania	8.0	7.9
8	Austria	7.9	7.9
9	Great Britain	7.7	7.6
10	Belgium	7.1	7.1
11	France	6.9	6.8
12	Estonia	6.6	6.5
13	Slovenia	6.6	6.4
14	Cyprus	6.6	6.3
15	Spain	6.1	6.1
16	Portugal	5.8	6.0
17	Malta	5.2	5.6
18	Poland	5.0	5.3
19	Lithuania	4.9	5.0
20	Hungary	5.1	4.7
21	Czech Republic	4.9	4.6
22	Leetonia	4.5	4.3
23	Slovakia	4.5	4.3
24	Italia	4.3	3.9
25	<b>Romania</b>	<b>3.8</b>	<b>3.7</b>
26	Bulgaria	3.8	3.6
27	Greece	3.8	3.5

Source: [www.transparency.org.ro](http://www.transparency.org.ro) - Evolution of EU Member States last year to assess the Corruption Perceptions Index

To form a complete picture about the corruption in our country, we have deemed necessary, the presentation level of this phenomenon in the EU member countries. Thus, we presented in Table no. 1.1., Evolution of the index of perception of corruption in the countries of the Community, in 2009 and 2010.

Analyzing the information provided we can see that from 2009 our country recorded a slightly higher perception of corruption in 2010. If in 2009, Romania, Bulgaria and Greece were countries in the Union and stood on a par with the same score (3.8) in terms of perception

of corruption in 2010, our country had a score of 3.7, assuming the so antepenultimul place ranking, while an index of corruption Bulgaria had 3.6 HDI and 3.5 Greece was considered the most corrupt country in the Community. Conversely Romania is Denmark, Sweden and Finland, the countries with the best scores in Europe, and some of the best in the world.

We believe that this level of corruption in our country is alarming, especially because it undermines the effectiveness and legitimacy of state institutions, limited economic

development of Romania and not least favours the development of economy. In addition the perception of corruption shows a low degree of public trust to state institutions.

Also, the extremely harmful effects that propagate, corruption can have adverse consequences in terms of external image of our country, both politically and economically in (by stopping and even withdrawal of foreign capital on Romanian market);

**e) relative late appearance of the law on combating tax evasion** (respectively, year 1994), with a number of shortcomings and deficiencies (which were intended to be corrected by the appearance of the new law to prevent, detect and punish evasion practices - Law no. 241/2005), until 1994, the device fiscal instrument having legally required to act to reduce tax fraud, tax evasion phenomenon consequence amplification. Moreover, the penalties provided by Law 87/1994 were contradicted in some cases, a number of other sanctions provided for in laws providing of taxes or even the annual budget laws, the parallelism and ambiguity regarding the establishment of sanctions can not only distort the balanced application of tax legislation.

One such example is the provision of the Constitution State Budget Law for 1997, that "by the payers of wages of budgetary obligations calculated and withheld at source from the remuneration that is penalized by 20% of the amounts withheld and not paid with such duties, "while art. 18 of Law No. 87/1994 stated that "if the taxes and contributions have been reduced due to the state in violation of tax rules, the offending person will pay in addition taxes and contributions paid an amount equal to the differences in taxes contributions set by the control body." These different provisions provided for the same acts could only hamper control, deepening confusion and raising a question mark over the accuracy and fairness of sanctions;

**f) maintaining an enabling fiscal framework** and tolerant enough not discourage violation of tax laws;

**g) the granting of tax incentives unsubstantiated factor** is another generator of tax evasion;

**h) insufficient training of a large part of the control device**, through ignorance of how the correct application of tax law or its application to generate and maintain discretion in dealing with the taxpayer tensions, tensions that are downloaded by attacks on state practice as tax evasion;

**i) lack of fiscal control device, given the existence of non-performing tax control structures**, lacking the ability to fight tax evasion practiced by the various brutal ways and means, and reduced ability to anticipate the ways of practicing tax evasion prevent and combat it.

An important deficiency in the control line was the tax, without a single body control, distribution control activity between several directorates and services, financial control mixing with the objectives of fiscal control, state control of capital control on private capital. These bodies were organized by the way proved inefficient in the tax evasion, fraud, corruption and economic crime. They simply failed to stifle Romanian taxpayer by repeated checks;

**j) lack of an integrated national institutions including financial control and fiscal institutions in managing important information on economic activities: the National Tax Administration Agency, the Financial Guard and National Customs Authority, the Police, the National Office for Prevention and Combating Money Laundering, the National Trade Register Office, the Border Police Department Anti-Fraud;**

**k) lack of fiscal and commercial courts**, which operate in the Prosecutor, which causes excessive use of legal remedies against acts of control;

**l) globalization and liberalization of the movement of**

**factors of production**, freedom of movement of capital leads to tax evasion and directs amplification of capital to tax havens placing the extraterritoriality enjoyed by Customs and escape, at least in part, under national law, according to the agreements concluded avoidance of double taxation;

**m) education tax deficiencies** by integrating imperfect tax in social life. Regarding this aspect, in the '40s, wrote C.N. Tăutu, education, tax "of Romanians at the time:" Education is our taxpayer made today so little that he has only one concern: how to pay less and, if it can not "1.

**n) specific thinking mentality former socialist countries**, specifically close to the underground economy, especially in terms of nature conservation conducted clandestine operations;

**o) Lack of confidence in the efficiency of public money to taxpayers.** This was caused primarily by poor management of public funds, which generated the taxpayer, the feeling that pays too much and receive too little in return;

**p) natural tendency of any natural or legal expenses** to get as low income, if possible even without any expense, is another cause of tax evasion.

We appreciate that, inclination to Romanian taxpayer's tax evasion was compounded by a general dissatisfaction regarding how public funds are used, this eventually leading to the establishment of social norms of tax evasion, in our society.

### 3. Conclusions

In our opinion, even if the rate of tax burden in Romania is about the same as in other European countries, in reality the real tax burden weighing on each

taxpayer is much higher, and in such a situation it is obvious that the temptation to bypass legal framework for reporting all income determined for tax purposes correct manifest more intensely. Avoidance and the narrow tax bases of public financial resources, which leads to a tightening of taxation, which in turn will motivate other contributors to the landing slope of the informal economy, thus causing a vicious circle in which the shows the relation cause - effect between tax burden and tax evasion.

We believe that another important factor, generating tax evasion is corruption. If tax evasion is flee from the payment of state taxes, corruption means, smoothing "all paths that lead either to avoid the payments which it considers to be possible corrupter to avoid using someone else's interest or the earnings do not could be obtained would not intervene if someone else is also interested.

So corruption is not only a means to get direct access to money or to various resources and ultimately money, but also a way of plotting tax evasion. We thus emphasize the close link between the two phenomena, in which corruption occurs in dual ways: as a contributing factor and consequence of tax evasion.

We can say that this is a market, underground "and is influenced by the general state of the economy, the morality of society, political factors and the degree of state involvement in the economy, corruption activity is closely related to the coexistence of public and private sectors.

Also consider that the existence of tax legislation characterized by the presence of gaps and inconsistencies contributed to the escalation escapist phenomenon in our country.

Economic analyst Daniel Daianu said in 2003 about tax evasion in Romania the following: "A classification of the causes of tax evasion can be made to us, depending on how enterprises. Some structurally can not pay. Phenomena that

---

<sup>1</sup> C. N. Tăutu, *Evolution and technique of direct taxes in Romania*, București, 1940 – citd by N. Hoanță in the paper *Tax evasion*, Publisher Tribuna Economică, 1997, p.76

occurred after 1989, including price liberalization, have featured a different context of the enterprise. Not recover production costs, and fight for survival has forced some to tax evasion. Another example is called moral hazard. Inflation amid some has learned not to pay or defer payments, easy, easy practice morphed into tax evasion. We can go further and see that large companies have been privileged and the nature of the old relations with banks. Basically, the banks were "prisoners" of large companies. Now the situation has changed, the banks are stronger; many have not only capital but also foreign management. So no bank financing goes by itself. However, however, large

companies and now have great bargaining power with the state.

Not by chance is much more difficult to work with large companies. They are in a perpetual war with the public authority, the state is forced to accept payment rescheduling because it can not close. And sometimes occur clientele interests. So, for large companies is more subtle evasion. Small businesses are but a thankless situation, they have less access to financing to credit and can negotiate from a position with the state stepmother. There is a difference between how the state can turn against the big and small. No small coincidence to find tax evasion".

## REFERENCES

Corduneanu Carmen	<i>The tax system in the science of finance</i> , Publisher Codex, Bucharest, 1998;
Cincă Mădălin	<i>Romanian fiscal system in the perspective of European structures</i> , PhD thesis, Craiova, 2009;
D.A.P. Florescu Dumitru, Coman Paul, Bălașa Gabriel	<i>Taxation in Romania. Regulatory, Doctrine, Jurisprudence</i> , All Beck Publishing House, Bucharest, 2005;
Fodor Iudit	<i>Tax evasion in Romania</i> , PhD thesis, Craiova, 2011;
Gliga Constantin Ioan	<i>Tax evasion. Regulatory. Doctrine. Jurisprudence</i> , Publisher C.H. Beck, Bucharest, 2007;
Hoanță Nicolae	<i>Tax evasion</i> , Publisher Tribuna Economică, Bucharest, 1997;
Pătroi Dragoș	<i>Tax evasion between permissive side, look offenses and criminal character</i> , Second Edition, Publishing House, Bucharest, 2007;
Rădulescu Stela Aurelia	<i>Tax evasion in Romania during the transition</i> , PhD thesis, Bucharest, 2006;
Văcărel Iulian - coordonator	<i>Public Finance</i> , Sixth Edition, Didactic and Pedagogic Publishing House, RA., Bucharest, 2007;
*****	<a href="http://www.mfinante.ro;">http://www.mfinante.ro;</a>
*****	<a href="http://www.euobserver.ro;">http://www.euobserver.ro;</a>
*****	<a href="http://www.europa.eu;">http://www.europa.eu;</a>
*****	<a href="http://www.transparency.org.ro.">http://www.transparency.org.ro.</a>