

Aspects of Influence on the Accounting-Taxation Relation at the Legislative Level in Romania

Mihaela-Nicoleta Băcanu
Bucharest University of Economic Studies, Faculty of Accounting
bacanu_mihaela90@yahoo.com

Abstract

The relation between accounting and taxation is a subject that has been influenced over time by the various changes in the legislation. In the last years there were various changes regarding both the accounting and taxation legislation. The accounting and taxation legislation represent the most important aspects in determining the level of interdependence between the two domains. Also, the level of interdependence at the legislative level can influence the application of the legislation. The paper aim is to analyze the accounting legislation and taxation legislation applied in Romania at the moment to establish the aspects of influence in the accounting-taxation relation.

Key words: accounting, taxation, relation, legislation, influence

J.E.L. classification: H20, M41

1. Introduction

The various changes that occurred over time in the accounting and taxation legislation have influenced the relation between the two domains. If at the beginning of the years '90 they were closely connected, now they head to a slight disconnection, taking into consideration that Romanian legislation was influenced by the Anglo-Saxon system whose characteristic is the disconnection between taxation and accounting. However the disconnection process is at the beginning in Romania. The paper aims to analyze the accounting legislation and the taxation legislation in force at the moment to establish the level of interdependence between them and the aspects of influence in the accounting-taxation relation. The legislation is the most important in this relation. The way in which the legislation is applied is also important in this relation, because if the provisions of each of the two are not fulfilled, it can appear some phenomena such us tax evasion that will influence the economic circuit in a market.

For this study it will be used qualitative methods, by analyzing the social documents such as the official documents: legislation and regulation applied at the moment in Romania. It will be analyzed the taxation legislation and the accounting legislation and it will be determined the aspects of influence on the relation between the two.

2. Literature review

“Within the national accounting regulations, the accounting policies and procedures are based on both the accounting principles and the normative regulation system. The reference system for elaborating accounting policies accepts alternatives to register and asses in accounting, respectively various methods of assessment and calculation of the financial position, result and modification in the financial position.” (Ciucur *et al*, 2012, p.77)

Both accounting and taxation are really important in the economic circuit and for the users of the financial information. “In any society, the need for taxation is fully proved, nothing else replacing this means of funding and support of the state. This is the more so as there has been created, in recent years, a general mood related to the budgetary, macroeconomic and social implications of tax evasion proliferation, under cover of a legislation which hardly improves.”

(Constantin, 2014, p.196)

“Today, the tax and accounting dependency and the requirement for the analysis of the perspectives regarding the harmonization and disconnections are recognized as the idea of increasing active role of financial information (and) making decisions to invest or on the prospects of a company.” (Oprean *et al*, 2012, p. 23)

Even if the two domains target the incomes and profits of the economic subjects, they have different objectives. “The interest of accounting is to present an accurate image of a company’s activity for all the users of the financial information. The taxation interest is gathering the taxes, fees, contributions and other amounts due to the general consolidated budget for financing the public expenses.” (Bacanu, 2016, p. 51)

“Analyzing the regulations from the taxation domain and those from the accounting domain, it can be seen that between taxation and accounting exist a relation of connection. More specifically, the taxation regulations depend on the accounting regulations. The taxes are found by applying some rules over the accounting data.” (Bacanu, 2015, p. 658)

“Supervising the tax bases, the legality and compliance of tax statements, the fairness and accuracy of the fulfillment of obligations by taxpayers, the compliance with the provisions of tax legislation and accounting legislation, the establishment of differences in payment obligations and their related ancillaries and consequently the information provided by the taxpayer, is made by the tax inspection.” (Constantin, 2010) As we can see the tax inspection supervises the activities of tax purposes. In this paper it will be also analyzed who verifies the accounting records and by whom are established the contraventions.

Further it will be analyzed the legislation in force in this moment for both of the domains, to establish the interaction between accounting and taxation regulation.

3. The analysis of the taxation legislation

Starting with 2016 in Romania entered into force the Law no. 227/2015 regarding the Fiscal Code and the Law no. 207/2015 regarding the Fiscal Procedure Code, which replaced the older legislation applied by taxation: Law no. 571/2003 regarding the Fiscal Code and Government Ordinance no. 92/2003 regarding the Fiscal Procedure Code republished.

Even if the old Fiscal Code was replaced, in the new Fiscal Code are maintained the provisions that refer to the accounting legislation. However, we will analyze further which of these provisions were changed and which are not and what is the influence of this change on the relation between accounting and taxation.

According to the Law no. 227/2015 regarding the Fiscal Code, article 19 “General Rules”, line 1 “the fiscal result is computed as the difference between the revenues and the expenses recorded according to the applicable accounting regulation, from which are deducted the non-taxable incomes and fiscal deductions and are added the non-deductible expenses”. It can be observed that this provision relates to the accounting regulation. So, the fiscal result is determined taking into consideration the revenues and expenses recorded in accounting registers. Thus, the difference between the revenues and the expenses recorded in accounting registers is named the accounting result. The fiscal result is dependent on the accounting result. Moreover, in the Methodological Norms of the Fiscal Code, point 5, for the application of the article 19, line 1, makes references exactly to the Accounting Law no. 82/1991 republished with subsequent amendments and supplements.

Also, according to the article 19, line 7 the taxpayers must draw up a tax records register in which to emphasize the taxable incomes and the expenses made for the activity of the entity and according to point 8 for the application of this article the taxpayer can draw up it “in written or electronic form respecting the provisions of the Law no. 82/1991 republished with subsequent amendments and supplements, regarding the use of information systems for automatic data processing”. The fiscal legislation makes again reference to the accounting legislation.

Another provision of the Fiscal Code that shows the interaction of taxation regulation with the accounting regulation is the article 53 regarding the taxable base of the microenterprises’ income tax. Thus, the taxable base represents the incomes from any source from which must be deducted some categories of incomes such as: “the value of commercial discounts granted after invoicing,

recorded in the account "709", according to the applicable accounting regulations" and to which must be added besides others "the value of commercial discounts received after invoicing, recorded in the account "609" according to the applicable accounting regulations". Moreover, in section 5 of the Methodological Norms of the Fiscal Code, point 5, for the application of the article 53, it is clearly specified that the taxable base for the microenterprises' income tax is represented by "the total of quarterly revenues recorded in the credit side of the accounts from the 7th class "Revenue accounts", according to the applicable accounting rules, from which will be deducted the income categories mentioned in art. 53 line 1 and will be added the elements mentioned in art. 53 line 2 of the Fiscal Code". This is an obvious reference to the accounting provisions through the specification of the elements existing in the General Chart of Account. So, the computation of the microenterprises' income tax is dependent on the values recorded in the accounts from the 7th class "Revenue accounts" existing in the trial balance of the entity.

Article 67 „General rules for assessment of net annual income from independent activities determined in real system, based on the accounting data" is another provision from the Fiscal Code that makes reference to the accounting regulation. Thus, as the title of the article says, the net annual income determined in real system is computed based on the accounting data as the difference between the gross income and the deductible expenses incurred in order to achieve the incomes, except the situations mentioned in the Fiscal Code.

As we can see the determination of the profit tax, the microenterprises' income tax and the net annual income from independent activities is dependent on the accounting regulation. This dependence can be also identified in the old Fiscal Code.

The major change related to the interdependence of the Fiscal Code with the accounting regulation came in 2016 once the new Fiscal Code entered into force, through the provisions regarding the tax on buildings. Thus, according to the article 153 "Computing the tax due by the juridical persons" from the old Fiscal Code the "tax on buildings for the juridical persons is computed by applying a tax rate on the inventory value of the buildings, which is the entry value of the buildings recorded in accounting. If the building is revalued according to the accounting regulations, the taxable value of the building is the accounting value after revaluation, recorded as such in the accounts owner - legal entity." It can be observed in this paragraph the dependency of the taxable value of the building on the accounting recordings. The taxation regulations were connected by the accounting regulations, because the taxable value of the building was the value registered in accounting registers.

On the other hand, according to the new Fiscal Code, besides other changes regarding the way of taxing the buildings, these provisions were changed. So, according to the article 460 "Calculation of tax/fee on buildings owned by juridical persons" the taxable value of the buildings owned by juridical persons is "the value the building had on 31st of December the year before the one for which the tax is computed: the last taxable value recorded in the tax authority records; the value resulting from an evaluation report drawn up by an authorized assessor in accordance with valuation standards of goods in force at the valuation date; the final value of construction works, for the new buildings constructed during the previous fiscal year; value of the buildings resulting from the document regarding the transfer of ownership of the buildings acquired during the prior fiscal year". As it can be observed, in the provisions of the new Fiscal Code it has been removed the reference to the accounting records and regulation. The taxable value of the buildings is not determined anymore based on the accounting records. It is determined based on the tax authorities' records, evaluation reports, documents regarding the transfer of ownership, or the final value of construction works for the new buildings. This is an obvious disconnection between taxation regulation and accounting regulation, a major change in the taxation regulation.

However, there is a provision in this article of the new Fiscal Code regarding the fee on buildings, which makes reference to the accounting records (article 460, line 5, letter f). Thus, the fee on buildings due by concessionaire, lessee and owner of the right of management or the right of use of the buildings owned by the state is determined based on the accounting value of the building, existent in the accounting records of the owner of the building. So, for this category of buildings and of taxpayers, there is due a fee whose calculation is dependent on the accounting records.

4. The analysis of the accounting legislation

Further it will be analyzed the accounting legislation to see the level of interdependence between this and taxation legislation.

Analyzing the Accounting Law 82/1991, there can be identified the article 23 regarding the use of information systems for automatic data processing in which it is making reference to the taxation. Thus, the entities must assure the access to the accounting data stored on technical supports for the tax authorities. Also, according to the article 42 line 4 “The establishment of contraventions and application of the fees are made by persons with attributions of fiscal inspection and financial control, as well as the staff of other directions of the Ministry of Finance, established by the Minister of Public Finance”.

We can see that in the Accounting Law are specified the authorities who verify the accounting records, establish the contraventions and apply the fees: tax authorities and persons with attributions of fiscal inspection and financial control.

These provisions emphasize the interdependence between the two domains. The accounting is the base for the computation of the majority of the taxes, thus it is important to be supervised by the tax authorities. This is another prove that the taxation is dependent on the accounting in Romania.

Another proof for establishing the interaction between accounting and taxation can be determined by analyzing the Order 1802 of 2014. So, we can identify at point 63, line 4 some provisions which prove the dependency of taxation on the accounting: “if the accounting policies for a prior period are changed, the entities must take in consideration the fiscal effects of these”. We can observe that the taxation can be influenced by the accounting changes.

5. Conclusions

In the taxation regulations can be identified various references to the accounting regulations. Thus, in the Fiscal Code a large part of the provisions make reference to the accounting regulations and to the accounting records.

The majority of the taxes are computed based on the accounting records. The fiscal result is computed based on the accounting result, the taxable base for the microenterprises' income tax is computed based on the value of the accounts from the 7th class existent in the trial balance, the net annual income from independent activities determined in real system is determined based on the accounting data. This is a clear proof that taxation legislation is dependent on the accounting legislation. The majority of the taxes are computed based on the values existent in the trial balance of an entity or in the accounting registers.

However starting to the year 2016, there is a major change in the taxation legislation regarding the tax on buildings, whose taxable value is not computed anymore based on the accounting value. This is an important step in the relation between accounting and taxation in Romania. For this category of tax, taxation legislation is independent and the accounting legislation doesn't influence anymore the computation of the tax.

Analyzing accounting legislation we can observe an emphasis on the relation of dependence between the two domains, as the accounting changes from a prior period has effects on the fiscal aspects. Also, the entities are required to assure the access to the accounting data for the tax authorities and the establishment of contraventions and application of the fees are made by persons with attributions of fiscal inspection and financial control.

Even if the taxation legislation is the one who has dependency directions on the accounting legislation, it must be analyzed the type of relation between the two domains on the application of legislation.

The dependency of taxation on the accounting at the legislation level can influence the application of professional judgment and the accounting treatments, because can intervene the phenomena such as tax optimization, creative accounting or tax evasion. The last two phenomena are a serious problem in our days, which grows and affect both the accounting purpose and the taxation purpose because if the accounting information is influenced by the taxation reasons, the users of financial information are influenced in taking the decisions, and the economic circuit will be influenced too. Also, if the accounting records don't present an accurate image of the entity, the

taxes wouldn't be computed at their real value.

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