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THE ROLE OF FINANCIAL-FISCAL CONTROL IN FIGHTING THE TAX EVASION PHENOMENON

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Abstract

A particular importance of the financial-fiscal control is determined by the fact that it is exercised by virtue of the right that the company has to defend its fundamental interests. The role of financial-fiscal control is to penetrate the activities of the economic agent through the levers offered by the fiscal system in the form of taxes and fees, establishing the way in which it fulfills the legality and whether it carries out an efficient economic activity. A successful financial-fiscal control depends on the manner in which those responsible for the control mission approach in a tactical manner all the signaling levels of the mechanism for identifying the phenomenon of tax evasion, using the analyzed financial-accounting information. The purpose of this article is to explore the context in which fiscal financial control responds to the needs of preventing and combating evasion, with emphasis on its role in the current conditions of fiscal pressure on economic operators and intensification of the legislative process.

Key words: tax evasion, financial-fiscal control, financial-accounting information, legislative process

JEL Classification: *M41*

I. INTRODUCTION

Fiscal control is, for the government, through its legal representatives, the main weapon in the fight against tax evasion. The degree of collection of budget revenues and the reduction of tax fraud and evasion depends on the organization and efficiency of financial control. The diversity and complexity of economic and financial phenomena, arising from the issue of the tendency towards a free economy, have a special importance in strengthening the role and prompt intervention of state and civil society bodies, organizational and functional structures of the specialized control apparatus on all economic and social sides.

Combating tax evasion is a major problem for any government, intending to collect all the budgets receivables it deserves to achieve the objectives proposed by the government program or compliance with budget resulting in increasing the living standards of the population (see http: indicators, /www.cdep.ro/proiecte/2015/100/60/9/em197.pdf). Evasion has become a phenomenon, an "epidemic", which by its magnitude shows the weakness of a state or society. The methods and techniques to combat this phenomenon consist mainly in improving the tax system, as well as improving tax control.

The particular importance of financial-fiscal control is determined by the fact that it is exercised under the right that society has to defend its fundamental interests (Caprian & Mariana, 2017: 123). Ensuring the necessary financial resources for the state is achieved through the fiscal system, respectively through its two main functions: the social function and the control function. The financial and tax control, through the levers offered by the fiscal system in the form of taxes and fees, penetrates the activities of the economic agent, establishing how it respects the legality and whether it carries out an efficient economic activity. Both the economic control and the financial and tax control presuppose, besides the verification of the documents, also a financial analysis, through which the performance status of the verified economic agents is determined. Through the analysis performed with the help of economic indicators, the existing dysfunctions in the patrimony management can be identified, substantiating the strategy of maintaining the competitive environment and the development of efficient activities. It should be understood that as long as the revenues of the state budget come mostly from taxes, fees and contributions, the state cannot be indifferent to the ability to pay taxes.

II. THE IMPORTANCE, OBJECTIVES AND PURPOSE OF FINANCIAL AND TAX CONTROL

The financial and tax control provides a series of information related to the activity of the taxpayers, giving the state institutions the possibility to correct the fiscal strategies, programs, and policies, as well as the legal regulations that govern them, to positively influence the efficiency of the activity carried out by economic operators. We consider that the financial and tax control efficiency is given by the degree of compliance of the taxpayers, by their contribution to the improvement of the legislative framework, by the possibility to be understood as an attribute of the state in achieving the incomes necessary to satisfy the general needs of the society. In the perspective of accession to the European Union, it is imperative to harmonize the legislation with that of the Union countries, requiring a change in the attitude of the legislator towards the taxpayer and the control practices carried out by state bodies. To achieve these desiderata, it is necessary that in the future the legislator should achieve a clear delimitation between the legal and the illegal facts in fiscal matters. Currently, the delimitation between legal and illegal in the field of taxation is uncertain, which creates special problems related to negative repercussions on the control efficiency.

Control is an essential element in the management of any socioeconomic system. The activities of the financial and tax control include the entire tax system and enter the economy, both vertically and horizontally, ensuring the observance of the accounting and reporting, and the legislative basis of taxation. As a result of the financial and tax control, the efficient management of the fiscal system, in many cases, is determined by the way the control system is organized. The importance of taxes in the process of financing public financial resources gives tax control a key role in the financial control system. Effective fiscal control is a necessary condition for the functioning of the fiscal system.

In practice, there is no rupture between legal and illegal, but a continuity; between black and white there are many "legitimate" nuances, which financial and tax control must deal with on a case-by-case basis. In this regard, without an economic and financial analysis, it is inconceivable to achieve the objectives of the control bodies, moreover, the level of economic efficiency of the activities of analysis-decision-control and control-analysis-decision depends on research, qualities, professional training of people, and realism in thinking and conducting control stages (Mironiuc & Pop, 2013: 17).

The control function of public finances is performed simultaneously with the distribution function, between them there are inter conditioning relations regarding the formation and distribution of public funds, in the sense of achieving the transfer of purchasing power from physical and legal bodies to administrative bodies, to whose disposition is constituted the public funds, as well as from them to various beneficiaries, individuals and entities. Regarding this subject, Robu & Georgescu (2001) using the procedures of economic-financial analysis, mentioned that the control bodies or with control attributions have the possibility to provide their activity in better conditions, in the qualitative sense of it.

III. THE NEED OF TAX CONTROL IN COMBATING TAX EVASION

Legal tax evasion is characterized by circumventing the tax law, using procedures and combinations not provided by it, ie moments missed by the legislator, resulting in tax avoidance in general - abstention from exercising the activity whose results are subject to taxation (in many cases such a method is not effective, as it can paralyze the economic activity of the entrepreneur and thus lead to unjustified loss of profit), the organization of activity as a result of which the entrepreneur will not be a taxpayer or the result of this activity will not be taxable by law. etc .; tax reduction without violating the tax law (ie, through tax planning and optimization) - maximum use of tax facilities provided by law; deduction from taxable income of expenses allowed for the deduction, but in an amount greater than economically justified.

To be able to intervene in the phenomenon of tax evasion, it is very important to understand this process, in the sense of identifying the factors that stimulate the evasion and the context in which it takes place. Tax evasion is generally defined as a rising phenomenon, which has made its presence felt, and which has been intensely discussed over time, manifesting itself both nationally and internationally. However, the notion of tax evasion is difficult to define due to its position on the border between legal and economic.

The term "evasion" is grammatically related to the term "evasive", which refers to circumvention, confusion, ambiguity, vague, imprecise. Due to the importance of this phenomenon, a variety of definitions and opinions have been formulated regarding tax evasion. The definition given by Dan Drosu Saguna regarding tax evasion is the following: "tax evasion is a kind of economic reflex that makes disappear the capitals that the tax authorities want to impose too much" (Şaguna Drosu & Şova, 2009: 280). Following the Law no. 87/1994 on combating tax evasion, currently repealed, tax evasion is defined as "evading by any means the imposition or payment of taxes, fees, contributions and other amounts due to the state budget, local budgets, social security

budget state and special funds budgets by Romanian or foreign individuals and legal entities, referred to in the taxpayer law". At the same time, the OECD (2004) managed to define tax evasion in a clear sense as follows: "all illegal commitments in which the legal liability for the payment of taxes and duties is hidden or ignored". In other words, the taxpayer pays less tax than he is legally obliged to pay, hiding income or information from the tax authorities.

Tax evasion is attributed to the characteristic of inaccuracy, which is caused by the multitude of words used to describe the phenomenon, such as the deliberate non-performance of legal tax duties by the taxpayer. It is credited with three aspects of legality. The first aspect attributed to the evasion phenomenon is the most extensive one, meaning that tax evasion is integrated into the notion of fraud. This sense was supported, especially in the period between the two World Wars. In the second aspect, which is the best known of the three, tax evasion is defined by Charpentier (1975) as "the art of avoiding the fall in the field of tax law". In other words, in this respect, tax evasion is strongly akin to fraud. In the last aspect associated with tax evasion, there is a common term indicating all forms of tax evasion by taxpayers. Through this aspect, fraud is included in tax evasion, fraud, being an important part of it. The evasion phenomenon can be seen as a challenge, taxpayers seeking to evade the payment of taxes and fees, by resorting to certain activities.

Unlike legal, tax evasion, which is essentially characterized by a prudent attitude towards evading taxes and fees within the limits of the law, illegal tax evasion, or tax fraud, occurs through flagrant violation of the law. In other words, tax fraud means any action of the taxpayer that violates the tax provision (having an intentional character), in order to evade the payment of taxes and fees due to the budget. Fraudulent tax evasion can also have the consequence of: total tax evasion - for example, carrying out entrepreneurial activity without state registration, including with the tax authorities; failure to keep records and failure to declare taxable matter; performing other actions that from the start are aimed at excluding the possibility of performing fiscal control in the established manner (creation of phantom enterprises, intentional and fictitious bankruptcy, destruction of documents, etc.); reducing the size of the tax liability in a variety of ways - concealing (reducing) income by falsifying records, including by not preparing documents or by drawing up fictitious primary documents (such as sales without an invoice or issuing invoices without an actual sale); non-presentation of documents or inclusion of erroneous data in the calculation and payment of tax and, respectively, full non-payment of tax, etc.

Fraudulent tax evasion or tax fraud consists in concealing (masking, camouflaging) the taxable object, underestimating the amount of taxable matter or using other means to avoid the payment of tax or duty due. It is very difficult to determine all forms of evasion of this kind, because they are very varied. The degree of tax evasion - both legal and illegal, is determined by the existing tax legislation and realities, and the effectiveness of the tax system depends on the degree of consent (approval) to the tax. Nowadays, in the conditions of the market economy, the widening transition from state property to private property conditions the increase and diversification of the number of economic agents, ie of the potential taxpayers. This fact and the fast development of various economic relations make it difficult to include them within the limits of tax legislation and create vast possibilities for tax evasion. The phenomenon of tax evasion is "difficult to prevent and quantify for several reasons, including: numerous defects and peculiarities in the field of tax legislation, organization of tax activity, non-use of national accounting methodology for macroeconomic evidence, mass evasion by various interest groups, economic agents that know how to take advantage of legal loopholes, the principle of bank confidentiality, etc. (Bostan, Mates, Grosu, Socoliuc, 2008) ".

Multiple tax evasion causes are known (see Table 1). We can name only some of them, taking into account the importance and frequency of their occurrence (economic factors):

- The correlation between the tax rate and the liability measures the taxpayer compares the economic consequences of paying the tax and applying the liability measures for non-payment, respectively, the higher the tax rate and the lower the liability measures, the greater economic effect of tax evasion;
- The economic status of the taxpayer the more difficult the taxpayer's economic situation is, the greater the temptation to tax evasion, and the less the danger of enforcing liability measures affects him than in the case of the dynamically developing taxpayer and the application of such measures may deprive him of obvious prospects; economic decline (crisis) the material condition of both the taxpayer and the consumers of goods, works and services worsens, thus reducing the possibility to transfer the tax due to the increase of delivery prices;
- Insufficiency of propaganda measures regarding the need to comply with tax and fiscal policy poor tax education of taxpayers, which is a component part of civic education;
- The lack of a well-organized tax control that would include efficient means and methods and a sufficiently numerical staff, well trained and correct in actions (excessive zeal of the tax authorities, ie exaggerations in the exercise of functions, also creates premises for tax evasion) etc. these are also called technical causes; the diversity of categories of taxpayers arising from the taxation procedure, which, in turn, is determined by the field and specificity of the taxpayer's activity (for example, employees have reduced

chances of evasion, because their taxation is ensured by a third party the persons who carry out entrepreneurial activity benefit from numerous possibilities of tax evasion through the way of evidence, the system of deductions, facilities, account transfers, refunds, etc.).

The context of the phenomenon	The causes of the tax evasion phenomenon
Value Added Tax (VAT) fraud *	It is due to the fact that the activity of refunding the value added tax was not carried out by the supplier of the company.
Unregistered enterprises	Occurs when companies are not registered at tax institutions in order not to pay certain taxes to the state.
Illicit traffic	It intervenes when trafficking goods for which taxes have not been paid or which are sold illegally.
Downwards turnover reporting	Occurs when a deliberately reduced turnover is reported in order to pay a lower tax.
Failure to report any sources of income	Companies do not report certain income in order not to be subject to taxes.
Distance selling **	It occurs when the payment of value added tax is avoided by selling products from one country to another, through online means, without the company being registered.
Phoenix type companies	Specific to those companies that have been set up with the intention of becoming indebted before the time of paying taxes and other debts.
Identity fraud	It is done by using false identities to evade certain tax obligations.
Money laundering	It is done by bringing money that comes from illegal activities in a legal business, to hide the origin of the money in such a way that its origin seems legal.
Cost inflation	It is made by companies that increase tax deductible expenses by using false invoices or receipts.

Table 1. The most relevant activities leading to tax evasion

*See Table 2

Source: Information taken from the OECD, 2017

Obviously, tax evasion is very harmful both to the state (society), depriving it of the income necessary to perform its tasks and duties, and to the taxpayer, because in reality the total taxes are distributed on a lower income table, creating distortions in tax burden (ie, in the fair and equal taxation of the same categories of taxpayers).

Table nr. 2. The evolution of the average VAT collection deficit in EU Member States in the period 2012-2017

Year	VAT deficit (million euros)	Average VAT deficit (%)
2012	164,879	12,30
2013	161,442	13,81
2014	160,221	10,92
2015	157,672	10,70
2016	147,146	9,90
2017	137,470	10,10

Source: European Commission, Studies and reports on the VAT deficit in EU Member States, Final Report 2019

From Table 2 we can see that the largest VAT deficit in the Member States was registered in 2012 in the amount of 164.879 million euros, with an average of 12.30%. From year to year, a decreasing trend of the deficit can be observed, reaching in 2017 the value of 137.470 million euros, with an average of 10.10%. Therefore, the need to find methods and techniques to combat VAT evasion is fundamental, especially due to the effects it has on the economy.

Carousel fraud involves, in a first way, the creation of a relatively simple mechanism, through which the economic agent from the country of origin invoices without VAT (being an intra-community delivery, exempt from VAT), and the economic agent from the destination country will apply reverse charge for this transaction (being an intra-community acquisition, calculating and registering the VAT related to the tax rate of his country, without actually paying it as collected VAT, but also as deductible VAT) "(Voicu, Militaru & Ardeleanu, 2015; 18).

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The most significant effects of tax evasion in the field of intra-community value added tax can be (Pastramă, 2014: 237):

- disruption of intra-community activities due to unjustified movement of goods and anti-competitive prices and tariffs;
- affecting Member States' tax revenues in a significant way;
- the effects on the deduction rights, made by the buyer of the goods, that were traded within the carousel.

Tax evasion methods are changing at an astonishing rate; respectively, control and investigation methods must evolve with the same intensity or even faster. According to some opinions, shared by specialists in the field of taxation, the phenomenon of tax evasion causes several types of effects, being observed a parallel between the functions of taxes and the types of effects of tax evasion. Thus, the following effects of tax evasion can be nominated: economic effects; social effects; effects on the formation of state revenues and even political effects.

Tax evasion activity, provided by individuals or entities, refers to the following fraudulent situations (see Figure 1):

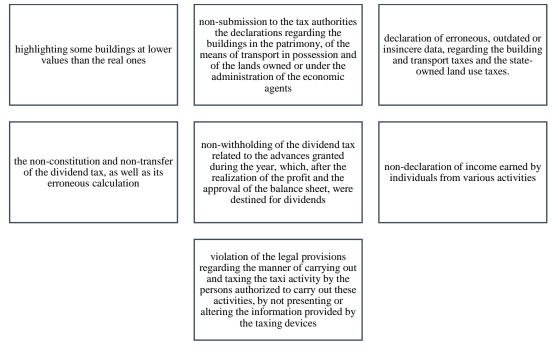


Figure 1 – Fraudulent tax evasion situations Source: Amarita, 2017:11

In a market economy, taxes are one of the most important sources of revenue in the budget and, at the same time, a fairly efficient lever through which the state can stimulate the development of economic activity. Therefore, a budget with sufficient revenues becomes an effective means of ensuring the general economic balance, as well as a means of correcting the economic situation (promoting measures with inflationary effect, such as increasing public spending to stimulate investment and creating new jobs, or the promotion of deflationary measures - for example, those on tax cuts).

Tax evasion is a serious act, because it involves the reduction of funds that constitute revenue in the budget; respectively, the state cannot properly fulfill its tasks in the socio-economic and sociocultural fields (granting subsidies, compensations and indemnities, fiscal facilities, etc.). On the other hand, the taxpayer who committed the evasion sooner or later will also suffer, directly or indirectly. Therefore, the insufficiency of the budgetary means necessary for the promotion of governmental programs of general or local interest can have quite serious social consequences, such as the decrease of the standard of living of the social categories that are deprived of state aid, the decrease of the standards regarding the education and health of the population, or may even cause protests and serious disturbances. Another aspect related to the social effects of tax evasion is the violation of social equity among taxpayers.

The existence of the tax evasion phenomenon leads to a decrease in the volume of revenues brought to the state and due to the acute lack of financial funds to fulfill its tasks, the state has no choice but to apply the only effective measure with immediate effect: raising tax rates and existing taxes or even the imposition of new taxes and duties. This measure increases the fiscal pressure (burden) and, as a natural consequence, increases the

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resistance (opposition) to taxation; obviously, the phenomenon of tax evasion is on the rise.

Tax evasion is evolving alarmingly at the international level, being the responsibility of each country to prevent and combat this phenomenon. In terms of European economic reality, it has recorded significant values regarding tax evasion. Official documents show an increase in the phenomenon of evasion in the European Union, with losses in the state budget amounting to 1 trillion euros, a value that attracts attention in a worrying way. So the level of fraud is 2,000 euros per citizen.

Nr.	Member State of the	2014	2015	2016	2017
Crt.	European Union	(% in GDP)	(% in GDP)	(% in GDP)	(% in GDP)
1.	Austria	7,8	8,2	9,6	7,1
2.	Belgium	16,1	16,2	22,1	15,6
3.	Bulgaria	31,0	30,6	37,8	29,6
4.	Ciprus	25,7	24,8	30,4	23,6
5.	Croatia	28,0	27,7	26,5	35,0
6.	Denmark	12,8	12,0	18,4	10,9
7.	Estonia	27,1	26,2	34,6	24,6
8.	Finland	12,9	12,4	20,0	11,5
9.	France	10,8	12,3	15,0	12,8
10.	Germany	12,2	12,2	16,7	10,4
11.	Greece	23,3	22,4	30,2	21,5
12.	Irland	11,8	11,3	15,8	10,4
13.	Italy	20,8	20,6	27,3	19,8
14.	Latvia	24,7	23,6	29,6	21,3
15.	Lithuania	27,1	25,8	35,3	23,8
16.	Luxemburg	8,1	8,3	9,7	8,2
17.	Malta	24,0	24,3	-	23,6
18.	Poland	23,5	23,3	27,8	22,2
19.	Portugal	18,7	17,6	24,5	16,6
20.	United Kingdom	9,6	9,4	12,9	9,4
21.	Czech Republic	15,3	15,1	19,4	14,1
22.	Romania	28,1	28,0	34,8	26,3
23.	Slovakia	14,6	14,1	19,5	13,0
24.	Slovenia	23,5	23,3	28,0	22,4
25.	Spain	18,5	18,2	20,3	17,2
26.	Sweden	13,6	13,2	18,8	21,1
27.	Netherlands	9,2	9,0	13,3	8,4
28.	Hungary	21,6	21,9	26,9	22,4
	Average for UE	18,6	18,3	22,3	17,9

Table 3. The evolution of tax evasion at the level of the European Union states in the period 2014-2017

Source: Adapted from Leonardo Media and Friendrich Schneider

Tax evasion negatively influences the volume of state revenues in two ways: the acts of tax evasion evade a part of revenues that should legally belong to the state; and another, indirect way, requires state public authorities to increase the tax burden through increased tax rates or new taxes, which results in taxpayer resistance and an increase in the share of tax evasion and finally - a lower volume than the expected one of the state revenues (Socoliuc et al., 2018). Another factor, which negatively influences the state's revenues, is the non-payment of taxes and fees on time, because it creates distortions in budget execution, ie it creates budget deficit (or imbalance in cash execution of the budget), which requires the state to resort to contracting domestic loans or foreign loans. The phenomenon of tax evasion generates social inequity and distrust of taxpayers in government.

The increased share of the tax evasion phenomenon can exert an essential influence on the evolution of the political system. We can say that the tax evasion phenomenon must be stopped or at least substantially diminished in order to exclude the chain of mentioned negative effects. Currently, the Republic of Moldova requires a complex of measures to eliminate all causes of tax evasion.

If as a result of the commission of a contravention, the taxes, fees and contributions cannot be established on the basis of the taxpayer's records, they are determined by the control body by estimation, using for this purpose any documents and information of the activity and the period carried out, including the comparison with similar activities and cases.

Tax evasion has become an international phenomenon over time. The liberalization of trade and the freedom of movement of the individual have created the premises for accentuating this phenomenon. Many countries (about 75) have become "offshore tax havens" as refuges for many companies, especially multinational companies, which

transfer and tax their revenues at very low rates compared to their countries of origin. In these cases, the governments of the respective countries cannot take direct measures against combating the phenomenon of tax evasion. Most countries import and export through these countries, the prices of goods being "regulated" so that minimum benefits are obtained in the countries of origin.

The negative effects of tax evasion are multiple and affect the living standards of the population, especially the middle and the poor class. Governments are forced to cut budget spending (education, health, law and order, defense, etc.). The effects are lower-budget wages, rising levels of corruption and fiscal pressure.

To solve these problems, profound changes are needed to be made gradually, over long periods of time. For example, in Romania, there are authors who claim that, nowadays, tax evasion is everywhere in Romania, being practiced by the seller of neighborhood groceries who do not issue tax receipts for goods sold, large retailers, street vendors, by the waiter who serves in restaurants or bars and is paid a tip, by the employer who pays his employee a salary higher than that stipulated in the contract, by the farmer who sells agricultural products without declaring the source of income, by the apartarments owners that have tenants and collect rents without declaring them to the National Agency for Fiscal Administration (NAFA), by traders who sell eggs and dairy products in the market and the examples can continue (Anitei & Lazar, 2016: 92).

Currently, we can say that tax evasion, no longer functions only as an internal phenomenon, but has become an international one following the deepening of international economic cooperation and the expansion of links between states with a distinct taxation. Offshore companies are characterized as jurisdictions and aim to avoid, through legal methods, tax obligations. They are usually set up in offshore centers also called tax havens.

The tax haven is a geographical area where a number of tax benefits are available, such as non-collection of taxes, securing of bank secrecy, lack of restrictions on foreign exchange and motivation to develop business and other. The existence of offshore jurisdictions has various effects on the global economy. For example, tax havens used for tax evasion purposes result in tax losses in residential countries. Tax havens contribute greatly to the sizing of international tax evasion. Currently, there are over 60 offshore areas, or regions in the world considered tax havens. They are located mainly on islands (British Virgin Islands, Bermuda, Isle of Man, Jersey, Guernsey, etc.), or in small countries (Liechtenstein, Malta, Monaco, San Marino, Panama, etc.). The legislation of these countries or territories encourages foreign investors to set up companies in that territory.

When it comes to economic and financial globalization, companies, with high turnover in any part of the world, want to reduce their tax-related spending. To achieve this, many of these companies are turning to offshore jurisdictions to have strategies to improve taxation. Choosing the most appropriate jurisdiction, whether for international trade or investment, can be difficult and requires very careful analysis. Most offshore jurisdictions have removed currency controls and introduced corporate activity provisions to meet a wider range of applications related to international transactions.

Finally, we can say that the starting point of the ongoing efforts to combat international tax evasion is the understanding that when third parties (ie foreign banks, foreign tax authorities) report tax information to home tax authorities, taxpayers have little opportunity to avoid taxing unreported income. On the other hand, in the absence of international exchange of information, it is difficult, if not impossible, to detect tax evasion through traditional tax audit methods.

IV. CONCLUSIONS

Preventing and combating tax evasion and fraud, are the direct result of studying the methods and techniques of appearance of this harmful phenomenon, knowing that, in the investigation of large cases of evasion is necessary and mandatory from state bodies, professionalism and large time and financial resources, from the initiation to the completion of complex control operations. The application of unitary fiscal control procedures, for each tax or fee, which would follow the way of settling and collecting them, will lead to a better collaboration between taxpayers and the state budget, thus determining the coherent functioning of the fiscal mechanism. The avoidance of the tax evasion out of control, during the evolution of our society, requires the continuation of the actions, having as objective the improvement of the control system of the economic subjects regarding the observance of the fiscal legislation. Tax evasion, as a phenomenon, cannot be completely combated, but its effects can be limited by the permanent involvement of the Government and honest taxpayers. The phenomenon of tax evasion is an essential component of the market economy, which is why the most appropriate attitude towards this phenomenon is represented by the achievement of an efficient administration in terms of identification and adoption of preventive measures and its control.

Following the completion of this research on global tax evasion, I believe that it is necessary to develop regulations and measures as clear as possible to prevent and combat this phenomenon. Also, one thing that stands out is that for an unaltered understanding of the concept of tax evasion, is needed a deeper analysis of the fundamental elements that are specific to the named phenomenon. In conclusion, an important aspect is that without an effective exchange of information between states, the identification of tax evasion is almost impossible.

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By making this research on the global offshore presence and the impact they have on the economy and tax evasion, I believe that in order to combat international tax evasion through offshore it is necessary to exchange information between states and to encourage the transparency between them.

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