

## TAX EVASION IN CROSS BORDER TEXTILES OPERATIONS

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**Abstract:** *We appreciated that the work can be divided into four chapters designed to enlighten, as far as possible the negative effects that evasion has, particularly the socio-economic phenomenon, faced by all countries. The negative effects generate an indisputable fraud phenomenon and tax evasion, which are felt directly on the level of tax revenue receipts, causing major distortions in the functioning of the mechanism of the market. Fiscal policy using the taxes generates psychological, financial, economic, social effects on a socio-economic environment. The public power that realizes the reality of the tax consequences of the action taken as solution changes of the tax system structure in order to modulate the effects according with the expected outcome. Therefore, the aimed pursued extent influences the technical characteristics of the taxes, and they influence the micro and macroeconomic effects. In this respect it has been proved that reducing tax evasion it allows the creation of budgetary resources necessary for allotting funds for economic growth. Developing and implementing a modern and predictable tax for a medium and long term, would be indispensable in the context of competition that occurs between the European states for attracting new investment and creating new jobs. The taxes do not have to shape the behavior of taxpayers, they must be the same regardless of the type of income, it should not include distortions. In order to be reasonable, the fiscal tax should be distributed as wide as possible.*

**Key words:** tax evasion; VAT, textiles; border operations.

### 1. INTRODUCTION

In Romania the phenomenon of tax evasion has taken in the last twenty years, a particular dimension, seriously affecting the economic development of the country. However, tax evasion is still very difficult to control and quantify. This is due to several factors, among which we mention the imperfections and particularities of tax legislation, the low living standards of the majority of the population, the reduced level of civilization, culture and civic consciousness, aggressive fiscal policies that the state promotes and last but not least corruption which is present in authorities with responsibilities in combating tax evasion. In Romania and at European Union level, tax evasion and fraud have serious consequences for the budgets of the Member States and on their own resources system, leading to violations of the principle of fair and transparent taxation, and can distort the competition damaging the functioning of the internal market.

We believe that, no matter how one defines this phenomenon, ultimately tax evasion is a bad thing approached maliciously by the taxpayer. Regarding crimes of tax evasion, they include deeds alleged as such in the criminal law. Tax evasion has a direct and instant effect on the levels of tax revenues, fact that leads directly to imbalances in market mechanisms as well as enrich illegally, practitioners of this method of cheating that affect the country and ultimately, each of us, the honest taxpayers. [1]

## **2. FISCAL FRAUD IN THE SALE OF TEXTILE PRODUCTS**

The accelerated decrease of lohn volume once our country integrated into the European Union, although alarming for companies in the textiles-footwear domain, however, at that time was considered not dangerous at the national level because it was compensated by other sectors development. However year after year, Romanian lohn has reduced its ratio in total exports of clothing and textile industry, out of which a big part of lohn contracts, was drastically reduced, production declined year by year in the context of many factories having closed their doors.

Most retailers have come to Romania for skilled labor and proximity to western markets. However, Romania has lost the battle with the Asian market on the wage costs segment, factories in China, Bangladesh and Pakistan working on much smaller wages than in Romania. In this context and also in the context of the crisis, Romanian factories lost customers, thousands of workers were unemployed, and some factories have closed. In this situation, production decreased by 94% during 1989-2011. A part of economic operators established after EU accession, but not only, have quickly assimilated criminal fraud practices of tax liabilities used successfully for many years in the Community. The mechanism itself is structured in the current transitional arrangements for the taxation of intra-Community trade, which requires as a general rule, taxation of intra-Community goods performed between taxable persons in the Member State of destination.

In the case of textiles and clothing production many factories have decided to pull the shutters, being defeated by the competition of cheap products coming from China on the one hand and Italy on the other for persons with average income. In this situation, starting with 2008 some operators began to defraud the tax obligations for clothing and textile operations, creating companies on behalf of foreign or Romanian citizens hardly identifiable, companies for whom they began to do intra-Community transactions of such goods. Depending on each case, the purchased garments and textiles were sold in Romania at competitive prices without tax obligations, the afferent accounting records were not carried out or the transactions were closed by other intra-community operations or fictitious exports.

In addition to these methods still practiced, in the period 2008 - 2009, the textiles made in China entered the EU through western harbours, were introduced illegally in Romania and released for free circulation without payment of afferent tax obligations, associated with the complicity of state representatives both in Romania and in other Member States, by registering the respective transports as output from Romania, especially to Ukraine and Moldova.

Tax fraud in this area was further materialized through:

- Undeclared production of goods;
- Undeclared imports from China and other Asian or under-developed countries;
- Non-inclusion in the base taxation;
- Procurement of large quantities of goods by individuals especially in Turkey and China and selling them on the black market;
- Fictitious exports.

This type of fraud involves a chain of successive operations of sale and purchase performed on the Community market and on Romania territory, made by a group of economic operators who sometimes seek to exploit, in an apparent hint of legality, and differences of tax rates applied by EU Member States for the purpose "of cheaper" goods subject to such transactions and, consequently, of creating a comparative advantage in the market in terms of trading price. [2]

## **3. FISCAL FRAUD IN CROSS BORDER TEXTILE PRODUCTS**

Carousel type fraud regarding VAT related to intra-Community transactions is an undeniable presence in intra-Community space, estimates of its size are worrying. The mechanism of this type of fraud is divided into the current transitional arrangements for the taxation of intra-Community trade, which requires as a general rule, taxation of intra-Community goods carried out between taxable persons in the Member State of destination.[3]

This type of fraud is based on a fairly simple mechanism, namely the economic operator from the country of origin is invoicing without VAT and the economic operator in the country of destination shall apply the reverse charge system for this operation. As noted above, there are multiple methods, but the real analysis covered in this paper are those identified as entering Romania under suspensive customs transit.

Thus, in 2008 there were identified a total number of 32 transit operations having as object goods of extra Community origin - China, being introduced into the customs territory of the European

Community and placed under a suspensive customs mode, with the final destination, different companies from Ukraine and Moldova. Customs transit operations were opened by customs offices in six EU member states, being completed and confirmed informatically in specialized module called NCTS by the customs offices at the Romanian border with recipient countries, without the possibility that the transited cargo could leave the European Community territory.

We mention that when placing some extra-Community goods under customs suspension regime and the opening of transit in a Member State of the European Communities (European Union), it represents a pecuniary guarantee, recorded by the main obliged state, that is returned when the goods leaves the common customs area. For 2008, it was established that customs officials in the offices of Romania's border with recipient countries, have falsely confirmed, both on paper and in the customs computer system, leaving the country and implicitly the customs area, with extra-Community destination, transport of those goods, with the consequent cash refund constituted guarantees and thus elusion of payment of European customs duties, the consequences of this being the illegal diminution of the resources of the general budget of the European Communities (European Union), by the non-payment of customs duties and avoiding the related VAT obligation to be paid to the Romanian state for goods released for free circulation in Romania. [3] [4]

Mentioning in the shipping documents of the same transport companies (even if shipments were made on the same day) in case the means of transport included on the accompanying documents have not entered Ukraine, through the crossing points mentioned. At the same time, the companies listed in customs documents as recipients of goods, were either not registered as businesses or were already liquidated. With regard to companies listed in the customs documents as recipients of goods which have been identified as active companies in Ukraine, from the verifications conducted by the competent authorities, it has been revealed that they have not made such imports.

At the same time, the failure to confirm the recipients partners of these operations, could be established by competent authorities that the goods being confirmed as going the Community, were sold in Romania, the state budget being caused a prejudice consisting of added value tax and profit fee and also illegal diminution of the resources of the general budget of the European Communities (European Union), by the non-payment of related customs duties. [3] [4] Given that a transport value was averaged at about 50,000 Euros, the customs value for the 32 shipments is 1,600,000 Euro.

According to TARIC (Integrated Customs Tariff Community) duties owed for such products during 2008 were considered by 12% of the customs value (the average percentage taking into account that it cannot be determined what kind of textile is about, in TARIC being recorded many tariff headings). Therefore, it was established that, by falsified confirming of withdrawal from Romania and thus from common customs area of the entire quantity of textiles, the general budget of the European Communities has illegally been decreased, by non-payment of related customs duties totaling 192,000 Euros, and Romania's general consolidated budget in amount of 340,480 Euro, accounting for value added tax, according to data from Table 1. [2]

The tax base for VAT was determined based on data and information available, according to the following formula:

$$\text{BIMP vat.} = \text{value at the customs} + \text{customs duty} [5]$$

To determine the VAT, a rate of 19% was applied to the tax base calculated according to the above formula.

*Table 1: Calculation of tax liabilities for the 32 transit operations*

Nr. crt.	Name	Customs Value	Customs duties	B.I. VAT	VAT
1	Tranzit 1	48.300	5.760	53.760	10.214
2	Tranzit 2	51.000	6.120	57.120	10.853
3	Tranzit 3	52.000	6.240	58.240	11.066
4	Tranzit 4	49.500	5.676	52.976	10.065
5	Tranzit 5	50.000	6.000	56.000	10.640
6	Tranzit 6	51.000	6.120	57.120	10.853
7	Tranzit 7	49.500	5.940	55.440	10.534
8	Tranzit 8	51.500	6.180	57.680	10.959
9	Tranzit 9	52.000	6.120	57.120	10.853

10	Tranzit 10	48.000	5.760	53.760	10.214
11	Tranzit 11	51.700	6.204	57.904	11.002
12	Tranzit 12	49.000	5.880	54.880	10.427
13	Tranzit 13	50.500	6.060	56.560	10.746
14	Tranzit 14	50.000	6.000	56.000	10.640
15	Tranzit 15	50.500	6.060	56.560	10.746
16	Tranzit 16	52.000	6.240	58.240	11.066
17	Tranzit 17	51.000	6.120	57.120	10.853
18	Tranzit 18	49.000	5.880	54.880	10.427
19	Tranzit 19	48.000	5.760	53.760	10.214
20	Tranzit 20	49.500	5.940	55.440	10.534
21	Tranzit 21	51.000	6.120	57.120	10.853
22	Tranzit 22	51.500	6.180	57.680	10.959
23	Tranzit 23	50.500	6.060	56.560	10.746
24	Tranzit 24	47.500	5.700	53.200	10.108
25	Tranzit 25	49.000	5.880	54.880	10.427
26	Tranzit 26	50.000	6.000	56.000	10.640
27	Tranzit 27	51.000	6.120	57.120	10.853
28	Tranzit 28	50.000	6.000	56.000	10.640
29	Tranzit 29	48.700	5.844	54.544	10.363
30	Tranzit 30	49.300	5.916	55.216	10.491
31	Tranzit 31	52.000	6.120	57.120	10.853
32	Tranzit 32	50.000	6.000	56.000	10.641
	<b>TOTAL</b>	<b>1.600.000</b>	<b>192.000</b>	<b>1.792.000</b>	<b>340.480</b>

Source: Processing author from [www.mfinante.ro](http://www.mfinante.ro), [www.eurojust.romania](http://www.eurojust.romania), [www.just.ro](http://www.just.ro)

#### 4. CONCLUSIONS

Although there is sufficient staff the fiscal and customs offices do not have the expected efficiency in many situations due to operating system of these institutions, being needed a consolidation at the local level and due to delays in terms of controlling and improving tax provisions it is necessary the use and improvement of the information systems. To improve the collection of taxes is absolutely necessary a profound reform of the administration of taxes in Romania.

Given the shipped goods origin, and the addressed, in such cases, after applying appropriate control procedures, it is required a risk assessment. In order to avoid such future practices it is necessary a specific procedure affixed to artery into and out of the customs territory, which can establish specific tasks for each phase of the operations of the physical, documentary, registration records etc., each customs officer assigned to specific responsibilities or per shift as well as a better management of access passwords in the computer system.

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