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## MANAGING THE TAX EVASION AND FRAUD RISKS AS RESULT OF THE VOLUNTARY TAXPAYER COMPLIANCE PROGRAM

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**Abstract.** *Currently, taxpayers are developing solutions to reduce the tax burden using both legal limits of the tax legislation and less legal limits.*

*Resulting from this situation, the concern of the State Tax Service in terms of tax practices in the future will be mainly focused on the identification and management of fraud and tax evasion risks, which represent a major impediment for the [revenue to the national public budget](#).*

*In this context, risk management through the voluntary compliance of taxpayers would be a less expensive solution for tax administration, and the results obtained could reduce the tax gap between what was planned and what was collected.*

*The study carried out by the author was focused on addressing the issue of the risks of voluntary compliance of taxpayers, thereby contributing to the increase of efficiency in tax administration, carried out by the State Tax Service.*

*The scientific approach started from the idea of identifying the potential risks faced by the State Tax Service in the process of tax administration.*

**Keywords:** tax evasion, tax fraud, taxpayers, voluntary compliance, risks, risk management.

**JEL Classification:** H21, H22, H26.

### **The topicality of the research topic**

The multitude of obligations that tax legislation imposes on taxpayers has made them, at all times, invent various procedures to evade tax provisions.

Tax evasion and fraud is a matter of morality, and the businessman abandons morality in other situations than the one in which he is facing the payment of tax liabilities to the state.

Since the business environment involves an infrastructure that can be used by both legitimate business structures and dubious individuals who can mask their fictitious transactions through various schemes and financial combinations, this topic becomes quite topical to be researched and analyzed, to come up with solutions to counteract this scourge.

As the author, I proposed to research this topic, which is quite current and necessary as a study for the State Tax Service, the body responsible for tax administration in the Republic of Moldova.

**Arguments** required for the research of this theme:

- identifying the risks that generate fraud and tax evasion;
- analysis of specific risks of fraud and tax evasion;
- studying how to manage compliance risks;
- expressing some reasoned opinions as a result of the research carried out;
- deducing some scientifically argued conclusions with reference to the subject of the research.

### **Research methodology**

The methodology, within the conducted research, was used with reference to the efforts dedicated to documentation, comparative analysis, development of solutions and models by investigating the reality and forecasting some tax events. Scientific research was carried out through the lens of three basic components: fundamental scientific research, applied scientific research and experimental development.

- *The fundamental research method*, which allowed: obtaining progress in knowledge, reflecting the premises of the attested changes in the researched field, concretizing the opportunities for the future, investigations in the form of theoretical studies, which led to the formulation of scientifically argued practical conclusions.

- *The method of applied research*, which had the task of providing data for the direction of practical activity, in order to increase methodical work and transpose some ideas into operational form.

- *The method of experimental development*, which includes research works done systematically in order to enrich the body of knowledge, including the knowledge of man, culture and society, as well as the use of this knowledge for new applications.

The research methodology involved the analysis and characteristics of the tax field, the establishment and application of some principles and rules for the conduct of investigations, specifying the working tools for data collection, generation and interpretation, approach strategies and analytical treatment.

Also, a dialectical unity was achieved by summing up two essential components: theory and scientific method. The theory of scientific research consisted in the use of the fund of accumulated knowledge, translated into a rational form, of concepts, theories and practical applications. The method served as a way to use knowledge and operate with it in order to further develop the researched subject, being, at the same time, the unique way of establishing scientific truth, as an element that gives the work scientific value and perfection.

**Research results.** The author aimed to highlight the problems related to the management of the risks of tax evasion and fraud, faced by the State Tax Service, as a result of the implementation of the voluntary taxpayer compliance program.

### **Introduction**

No state wants to have tax evaders. But this scourge is very difficult to combat because the taxpayer's relationship with the tax system is first of all a problem of perception, in relation to the entire levy that he has to pay. This perception is obviously characterized by a system of coercion, even pressure, which explains the permanent opposition of the taxpayer to the payment of tax obligations.

In order to avoid this perception of permanent coercion, it is necessary to find that balance in communication, so that the taxpayer understands that by voluntarily complying he will have the opportunity to be active in business, without fear of being persecuted.

For these reasons, to the extent that the citizen-taxpayer's understanding of his role in supporting the state and how the latter uses tax resources will increase, the authority of the

taxpayer will also increase and the State Tax Service, will organize a fair and balanced administration, without resorting to repressive measures.

### **Description of the topic**

Tax evasion and tax fraud have always been active and ingenious, for the simple reason that the tax body, hitting people and their wealth, touches them at an extremely sensitive point - property. But the state cannot exist without tax levies. Taxes are considered to be "the very existence of the state, expressed in economic language". [Manole T., 2016].

Despite everything that is written about the causes, extent, methods, control and sanctions regarding tax evasion, there is no unanimously accepted definition of the notion or the concept of tax fraud. Economist of French origin Jean-Claude Martinez points out that "we cannot only discuss fraud, legitimate or evasion, we must nuance the points of view and discussing tax havens or the right to flee from the burdensome tax, freedom of choice towards the more a little burdensome or about tax underestimation". [Martinez J., 1996].

He concludes that tax evasion is the minimization of excess taxation by using real acceptable alternatives, while tax fraud is determined by the violation of existing tax legislation.

Ioana Maria Costea, tax expert believes that tax evasion must be defined as "the set of crimes committed by a taxpayer or another person, with intent, by fraudulently fulfilling or failing to fulfill the tax or procedural-tax obligations to which he is held, in order to reduce tax revenues to the general consolidated budget". [Costea M.I., 2011].

In the legislation of the Republic of Moldova, according to the Penal Code, article 244, it stipulates that tax evasion implies "the intentional inclusion in accounting, tax and/or financial documents, including electronic ones, of obviously distorted data on income or expenses that are not based on real operations or based on operations that did not exist, either through the intentional concealment of taxable objects, accounting, tax and/or financial documents, if the cumulative amount of the tax, provided by the Tax Code, the mandatory state social insurance contribution or the mandatory medical assistance insurance contributions related to a tax year exceeds 50 average monthly wages for the forecasted economy, established by the Government Decision in force at the time of the act". [Penal Code, 2009].

A short but relevant definition of the crime of tax evasion is the use of certain means done in bad faith, by deception, which result in evading the payment of budgetary obligations.

With reference to tax fraud, most tax experts consider it a deliberate action to evade the payment of taxes, duties and state social and health insurance contributions. This procedure will be distinguished from tax evasion because it will resort to the concealment of some information, the taxpayer thus avoiding the obligation to declare the income derived as a result of his economic activity.

Although the national legislation of the Republic of Moldova does not provide for this notion, it is present in the economic lexicon of the country and therefore it must be defined. Thus, in the opinion of the authors, expressed in the specialized magazine of the State Tax Service Monitorul Fiscal "Fisc.md", "tax fraud means any culpable action committed by taxpayers, involving a violation of tax legislation, with the deliberate aim of avoiding paying taxes, which are intended for the National Public Budget". [Fisc.md Fiscal Monitor, 2022].

Most of the contemporary authors see tax evasion and fraud as the totality of the manifestations of evasion in front of the tax burdens, which can take a form:

- illegal, having a fraudulent character, or
- licit, legal or tolerated.

As the globalization of the economy forces national and multinational companies to face increasingly fierce competition pressure and the need to constantly analyze the efficiency of their business structure, without constant improvement of the business structure and economic-financial indicators, they can quickly move to the side of stagnation, uncompetitiveness and even insolvency.

This is how the border between planning, i.e. tax optimization, and evasion is a very sensitive one and therefore, most of the specialized literature is focused on the need to delimit the area of tax evasion, implicitly reducing taxes and fees through tax planning and optimization.

The absence of very clear provisions and rules regarding tax evasion and fraud in the Tax Code of the Republic of Moldova, as well as the lack of a unified approach, mean that, in many cases, reducing the amount of taxes and fees, through tax planning and optimization, is framed as evasion, thus avoiding the very serious consequences, both fiscal and criminal, that could predict the consequences of tax fraud.

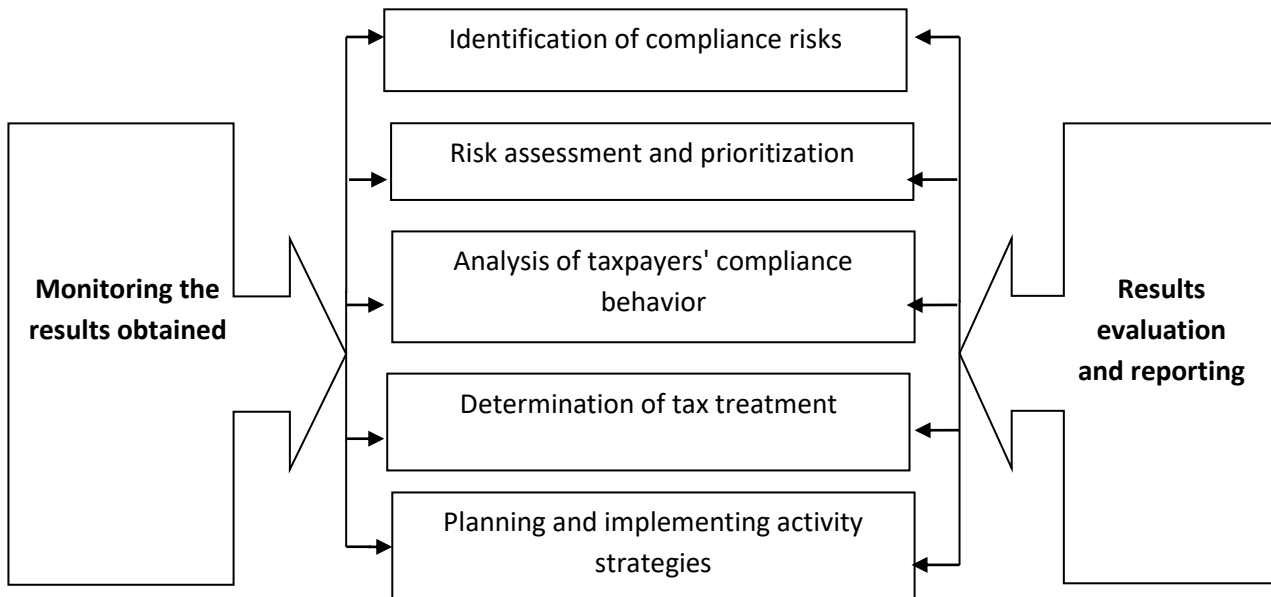
In general, the avoidance of the tax burden occurs through three methods:

- a) the tax regulatory norm itself ensures the avoidance of the tax burden through a favorable tax regime;
- b) the unwillingness of the legal entities to fulfill its tax obligations;
- c) use of loopholes or legislative loopholes.

In order to avoid the consequences of tax evasion and fraud and to reduce the costs of tax administration, the State Tax Service implemented the national program of voluntary taxpayer compliance.

In the opinion of the State tax Service, the management of compliance risks must be a continuous process, oriented towards the identification of risks from taxpayers' activity and the application of the simplest and most effective treatments to mitigate the risks of non-compliance and increase the level of voluntary tax compliance.

Thus, the management of compliance risks must involve the following steps:



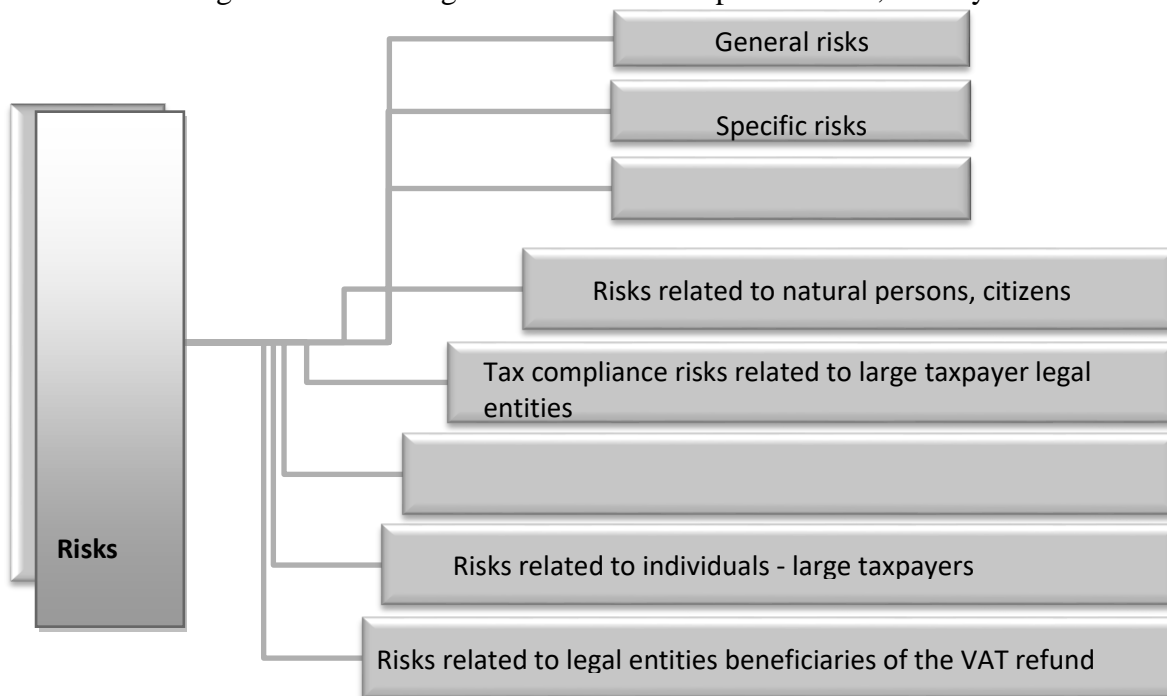
**Figure 1. Compliance risk management**

*Source: Adapted by the author from the Taxpayer Compliance Program developed by the State Tax Service*

The author of this study believes that risk management must be a systematic process, in which the State Tax Service makes deliberate choices on the compliance treatment. Compliance treatment must be based on knowledge of the behavior of each individual taxpayer, each branch of economic activity, be it a natural person or a legal entity, which could be used to effectively stimulate voluntary compliance and prevent evasion from payment and calculation taxes, duties and other mandatory payments, including through the trend of continuous reduction of the phenomenon of tax evasion.

We consider it appropriate that for honest taxpayers the treatment by voluntary compliance should be used, and for taxpayers who practice tax evasion and fraud, the treatment by forced compliance should be used.

Currently, the State Tax Service operates with eight categories of tax non-compliance risks, which have been registered in the Register of tax non-compliance risks, namely:



**Figure 2. Risk categories** [https://sfs.md, viewed 03.09.2022]

Source: <https://sfs.md>

The probability of occurrence of risks is expressed by the possibility of determining some tax obligations, which have been reduced intentionally or unintentionally by the taxpayer.

The risk categories include the risks identified in the activity of all categories of taxpayers who carry out the activity of an entrepreneur in the part related to the general aspects of organizing the activity of an entrepreneur, the periodicity of the control activity of the State Tax Service vis-à-vis the taxpayer, the general aspects what characterizes the activity of a taxpayer.

After the identification of the risks, the evaluation stage follows, which has as its final goal - the establishment of the hierarchy of risks, their prioritization according to risk tolerance.

The objective of compliance risk assessment and prioritization is to assess the significance of risks identified in taxpayer activity and to prioritize the compliance outcome and available resources. The risk assessment is carried out in a way intended to facilitate the monitoring and identification of the order of priorities regarding the risks.

Thus, depending on the consequence of the occurrence of the risk on the level of collection at the National Public Budget of tax obligations, the risk can be:

- Low – the risk will have an insignificant effect, the amounts of tax obligations that can be reduced by the taxpayer do not significantly influence the level of budget execution.
- Medium – the risk can materialize in additional calculations to the budget, but which have an average influence on the level of budget execution.
- High – the risk means a high level of tax non-compliance, which can result in significant reduced/concealed tax obligations.

It's no secret that a good part of the difficult nature of tax levies lies in the complexity and changing nature of tax legislation. This complexity is obviously due in large part to the multidimensional image of contemporary societies. This complexity, which the tax body tries to manage, is aggravated by the very instability of the tax system, due to the fast economic and social developments to which, permanently, the tax legislation must adapt. However, taxpayers are mostly attached to a certain voluntary compliance, especially when it comes to tax levies.

### **Conclusion**

Any tax levy in the taxpayer's opinion reduces his income or well-being. But without these levies the state cannot exist. The state must honor his social, economic and other obligations to his citizens. Under these conditions, complying with tax legislation is one of the essential civic duties of taxpayers, and the development of tax citizenship requires a responsible relationship between the taxpayer and the tax authority.

In order for the taxpayer to voluntarily comply with tax requirements, he must feel that he is being treated fairly, impartially and equidistantly.

The basic pillars that must stand at the foundation of a correct relationship between the tax body and taxpayers must be manifested through:

- tax administration must simplify the lives of taxpayers (facilitating the declaration and payment of tax obligations, modern channels of communication, clear and easy-to-understand language, support for setting up a business, a more rational sanctions regime);
- tax administration must be fair (apply tax legislation neutrally, impartially and realistically, taking into account the difficulties of taxpayers, seeking a balance in relations with them);
- the tax body must respect taxpayers and their rights (presumption of good faith, right to legal security, right to appeal, protection of fiscal secrecy);
- the tax service must be at the service of the taxpayer (the right to find solutions and the right to be listened to with consideration).

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