

CONSIDERATIONS REGARDING THE ORGANISATION OF FINANCIAL MANAGEMENT OF THE ECONOMIC ENTITIES

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Abstract

This research deals with analyzing the legal aspects of organizing the financial management at one of the two participants in the taxing process that is of the tax payer. We managed to analyze the constitution of the financial management from the perspective of the tax payer as an essential resource of taxing information both for him/her and also for the other user that is the taxing administration regarding the constitution of the taxing debt.

The analysis of the constitution of the financial management that I have done was made in two ways. In one way the means (the procedure) were analyzed and also the instruments (financial vectors) of constituting taxes and the second way refers to the means and instruments of gathering these obligations.

The conclusions refer especially to the demands of leading this management so that it will be assured by the rightfulness of the transmitting information on the taxing vectors of ANAF structures (ANAF – National Agency of Taxing Administration) as a support for the taxing debts leading by these structures respectively the need to know at any moment, the amount of the debts towards the state, the debts which are at the general consolidated budget, respectively.

Key words: taxing, taxing process, taxes, financial management, financial vectors.

JEL Classification: H30

INTRODUCTION

The open purpose of this paper is to show the role of the tax payer' financial management in an efficient and operational taxing system in order to fulfil its role. Its first role is to assure sufficient financial resources at the society's disposal. In this respect I have analysed the services which revert to the tax payer by the financial management that he is leading. I have also analyzed the way in which it refers to the above mentioned objective by the way it is organised, taxing and financial procedures and used taxing instruments.

THE CONCEPT REGARDING OBLIGATION AND FINANCIAL MANAGEMENT

The tax payer's obligations include a larger area, meaning more than paying a tax at the taxing institution. This term also includes the tax payer's obligations regarding the declaration of the goods and the income, the calculation, the retention and the recording of the taxes in the bookkeeping records as well as other obligations from the taxing legislations.

However, by defining the term management, which comes from the Latin word "gestio", meaning "organising the management of a patrimony in all its complexity", and also in the context of our theme here and of the French expression "gestion" which co-responds to the Anglo-Saxon term of management, we could define the notion of fiscal management as "an assembly of operations which have as object the administration of the obligation -financial claim report and the relationship of the tax payer with the ANAF structures, that is, the fiscal units of the local administration.

The concept of financial management presupposes the management of the taxing obligations from the point of view of the tax payers and his/her debts towards the state.

According to the juridical form of setting it up, the way it is organised and the functioning of the financial management is different for a natural person or a judicial one.

Therefore when we approach the problem of fiscal management which is necessary to be organised by the tax payers and the taxes from a conceptual point of view we must take into account the specificity of each tax payer, be it normal or judicial person and also the five main

groups of fiscal obligations which everyone in particular imposes different documents and methodologies of quantifying these obligations. Some of them are determined by the tax payer and the others by the financial institution.

PROCEDURES REGARDING SETTING UP THE MANAGEMENT OF FINANCIAL OBLIGATIONS

The management of taxes which is set up in the tax payer's own informational and accounting system is made up by more categories of taxes, respectively:

- taxes which set up cost elements (local taxes, excise, custom taxes, social contributions, etc);
- taxes which issue from the newly created value (profit tax and dividend taxes) income tax in the case of income coming from independent activities;
- although the tax payer contributes as a physical person or a juridical one to the taxes and in the case of the tax on the income and on their social contribution they issue from the employees' income, which themselves, they represent cost elements;
- taxes, VAT, respectively, whose fiscal management is specific because although the taxing base is added value, created during the tax payers activities, it being collected and paid by him/her although its supporter is his/her final consumer.

The management of taxes owned to the budget is bound in the whole of the tax payers' management (economic agents). By this structure of management the basis of determination, recognition, recording, declaring and discounting the taxes' obligations is assured. These are the taxes that the economic agents owe to the general consolidated budget according to the taxing system made by the Law of the Public Finances and the Fiscal Code.

All the taxes which are owned to the budget by a society are included in the content of the taxes management of the economic agents. In this respect, in order to organise this management , the society must set up its own organisation chart of the taxes owned to the budget.

In other terms, we believe that one cannot talk about a proper financial management of the tax payer. This is because in the organisational system of the tax payer functioning, there is no certain explicit compartment which deals exclusively with both the determination and the quantification and also with the setting up his/her financial management towards the state. In the financial-accounting departments of the tax payer or in the departments which deal with costs there are employees who calculate the elements of cost which, for instance are formed by the quantum of certain taxes, for instance the taxes on the buildings, the taxes on the land, taxes on the auto vehicles, taxes of using the state property etc.

Despite all these, we consider it necessary to set a limit on the procedural technical outlines in order to instrument the necessary elements in order to determine and remove the taxes which can assure a conceptual unit in what the way of evaluating and of recognising the taxes is concerned. This is from both the tax payer and the financial institution are concerned. From our point of view the organization of the financial management of the two financial partners is concerned, the state, represented by ANEF in the taxing process must undergo many steps, as follows:

1. setting up the management procedures of each type of tax from the organisation chart ;
2. setting up the means of making the procedures ;
3. determining and recording the taxes in the bookkeeping ;
4. declaring the taxes at the local administration ;
5. the payment of the due taxes ;
6. the control of making up the management operations regarding the taxes ;
7. setting up a financial management of the tax payer with the debt management of the fiscal administration.

This frame of action ensures the premises for creating a taxing data base, which can be accessed at any moment, in this way one can know precisely the financial-taxes situation of the institution if we refer for example at the tax payer as a judicial person.

We also have to bear in mind when we approach the problem of the fiscal management of the tax payer that it presents a set of particularities according to the nature of that certain tax, its approach being different in the case of the direct taxes than in the case of indirect taxes, the taxes on circulation.

Thus the fiscal management regarding the profit tax or the income tax from independent activities or on dividend tax presupposes other methods and techniques of calculation than in the taxes which form the elements of cost. The income tax from the independent activities or from the dividend tax are taxes supported from the newly created income.

Therefore, the fiscal management of these two last taxes is organised differently than in case of the financial management which make up the elements of cost, only after finalizing the financial exercise, on the basis of financial situations and the profit/loss account. This account is temporary throughout the year and final at the end of the exercise.

Another taxing obligation of the tax payer for which one must set up a specific financial management is the financial obligations from the salary tax and the compulsory contributions of the employees.

A similar fiscal management is also organised by the tax payer in the case of the income taxes made by the non-resident if this is the case.

In what the circulation taxes are concerned, the same personnel or another one from the financial departments quantifies the excise by specific techniques or one receives from the customs the quantum of the determined excises in the customs or the custom taxes.

And later on, these quantified financial obligations are in a certain way reflected in the spending accounts and make up cost elements for the new products or services and at the same time these are set up in the tax payer's financial obligation.

In this regard a specific financial management is made up by the VAT tax payers. I have underlined a particular fiscal management because in all the other cases of tax management they are either supported by the costs or they are part of their newly created value, in the case of the VAT. Although it is collected and taken to the financial institution, it is supported by the final consumer and not by the tax payer.

Because of the fact the tax payers are divided into two large categories, juridical tax payer and physical tax payer, they have different rights and responsibilities in what the organisation and the leading of the financial/accounting system is concerned. Therefore it will be very different than the way in which they will be able to organise the fiscal management regarding their obligations to the state.

FORMULATING THE RESULTS

Thus, the tax payer, a judicial persona is obliged to outline the entire patrimony as well as its movement in the technological process, according to the type of the activity, as well as the results of this process by a bookkeeping based on the double recording. This allows him to have access to the data and to the more complete and precise information regarding the financial management to a natural person who manages the patrimony based on bookkeeping. This thing will have a negative influence on the possibilities of organising a correct financial management.

Therefore when we approach the problem of financial management which is necessary to be organised by the tax payers, we have to take into account the category of each tax payer, judicial or natural person as well as the five large groups of taxes which each in particular, must impose documents and different methodologies of quantifying these obligations. Some of them are determined by the tax payer and the others are determined by the financial institution. There are notable differences that must be taken into account among the two categories of tax payers which must determine the taxes or which influence in many ways the financial management of the tax payer in its own computerized and bookkeeping software among which:

- a) There are notable differences among the taxes of the judicial person's tax payers and the taxes of the natural person. We give an example the fact that the judicial person calculate a profit tax and the natural person calculate an income tax ;
- b) There are differences in what the accounting system is concerned regarding the reflection of the income and of the expenses for their activities. Some do this thing with the help of accounting, based on the double recording - judicial person and the others – the natural person do this thing by a simple party accounting and thereby there are all the advantages and disadvantages regarding the precision and the rightfulness of reflecting the operations regarding the income and the spending and finally the taxed database ;
- c) There are differences in which regards the way of the quantum of the taxes is concerned. This is because of the accounting system of rendering evident the income and the spending at the two categories of tax payers. We refer here to the profit tax and to the income tax as well as to the decisive factor which makes this thing. In the case of the profit tax, the accountant makes the determination and in these conditions we refer to self imposing fact. In the case of the income tax the natural person declares the income the quantum of which can or cannot be taken into account by the fiscal institution. What follows is the right dimension of the income tax. This will be done by the taxing institution and in this situation we refer to a decision of imposing of the taxing institution.

The difference between self imposing and imposing in the case of taxes is that in its case it is the tax payer's emanation which can or cannot be accepted by the financial institution when there are financial controls and in the great majority of the cases, some differences are seen in determining the taxes, while in the case of the tax income, the taxation will be made by the financial institution and can or cannot be accepted by the tax payer, who can, therefore contest the decision of the taxing institution.

We mention that in the case of the established differences by the financial control institutions, the tax payer has the legal possibility to contest these differences.

The rendering evident of the accounting obligations is made on the basis of different instruments of taxation, from the self imposing documents to communication of the financial administration, the pay list of the salaries which on one hand has a closed circuit, all of these giving information regarding on accounting and giving internal financial fluxes. On the other hand with the help of the informational-accounting interface, another series of fluxes is released by this exterior data, that is those informational fluxes to the fiscal administration. On this basis the management organises its own management and accounting of the debts lead by the state. This is the source of information and the justifying instrument for the management and the financial accounting. The meeting zone of the informational exchange, we call it interface and the information which circle in this segment we named it exterior, because they are issued by the tax payer, the state respectively, in the rolling of the activities from the fiscal process but they circle outside it.

The reflection in the judicial person tax payer's accounting of the quantum of the self determined fiscal accounting or of those established by the taxing organisations is recorded on the economic subject with its value and in the case of the salaries, these will be diminished by the quantum of the taxes by retention at the source, by debiting the accounts of the third party on one hand and by crediting the accounts of the third party which reflect the fiscal duty to a budget or another on the other hand.

For example, the taxes which are cost elements as well as the local taxes, excises, the custom taxes and the obligatory contributions which fall on the employer's shoulder are outlined and reflected on the spending at the moment of producing the economic operations. For example, in the case of the taxes and the local taxes, it is reflected on the spending accounts, ct. 635 "Spending with other taxes and payments" on debits and the account nr. 446 "Other taxes and payments" on credits. They reflect a tax without which it being produced in fact by the payment.

However this system reflects the principle of obliged accounting with all its advantages and disadvantages.

Other analytical are reflected in the same spending account, nr. 635 “Spending with other taxes, and payments”, for instance even the excises, custom taxes, taxes on dividends, on one hand and by credit, by the third party account nr 446 “Other taxes and payments” analytical and distinct, obligations for the state budget, on the other hand.

In the same manner and under the same principles the duties of the employer are outlined, every month, the duties of the employer regarding the obligatory contributions, in the accounts of corresponding expenses, the 645 account, respectively “Expenses regarding the assurance and the social protection”, distinct analytical for social assurance, unemployment and health on one hand and credit corresponding, 431 accounts “Social assurance” nr 437 r respectively “Unemployment Aid” for recording the state social assurance and health and the unemployment aid, respectively.

And also for rendering evident the tax payers' contribution to the profit tax, according to the actual regulations are outlined by the debit of the account of expenses nr 691 "Expenses on the profit tax" and on the credit in correspondence with the account 441 " The profit tax".

Regarding the way in which the law maker has solved the reflection in the account of the financial accountant of the taxes, we formulate the following opinions:

We appreciate that the structure of the accounts from the financial accounting of the spending and the third party person must be harmonised with that of a five public budgets, the state budget, the social security budget, the local budget, the unique National Fund of the health social securities and the budget for the unemployment assurance. This bookkeeping is organised and structured regarding the budgetary debts from the public bookkeeping. We choose for the similarity of the structure of the accounts of the five budgets from the financial bookkeeping regarding the taxes with the structure of the accounts on the five budgets from the public accounting, which has already been achieved as we have shown previously, so as to allow the look in the mirror that is a permanent comparison of the outlined sold in the two bookkeeping systems, in order to improve the communication among the two participants at the taxing process. Because of the way in which the activity is organised today, the process of comparison is very shaky. This is one of the unsolved problems until present days from the domain of the accounting interface.

We believe that it would be correct if there were an identity between the structure of the spending of the taxes category and the structure of the account of the third party person, like it is the case of the profit tax. In other words it would be fair if there would be excises or custom taxes for the custom taxes in the spending accounts and to match the discount account.

We appreciate that the law maker has found an inadequate solution when it mattered for the outlining the obligation regarding the tax profit, an account of spending because the recording of the obligation and its payment does not represent an expense for the tax payer. It is a tax owned by the newly created value, from the profit and in this situation the account which should reflect this thing could not be another account but the account number 129 “The redistribution of the profit”, following that on the credit, the account must reflect the obligation to remain the same accountable treatment applied in the case of dividend tax, whose source being also the profit, the newly created value, respectively.

Another category of financial obligations whose quantum and reflection in the accounting fall in the task of the tax payer are tax duties owned by the employers as well as the wage tax and their social contributions. Their reflections in the financial accounting outlines the diminishing of the employers' rights by debiting the account number 421 "Employers – due wages" and the accounts regarding the wages tax, account number 444 "Wage tax", account 4321 "The employers' contributions to the social assurance", 4314 "The employers' contribution for the health social insurance" 4372 "The employers' contribution to the employment fund".

By reflecting the financial accounting accounts as it was above mentioned, the tax payer has its operations with the help of those who create and define the management of the taxes. By debiting the analytics of the third party accounts at the reflection of the taxes, the supporter of that

tax, the tax payer, respectively or a potential beneficiary (employer – account nr 421 etc) of income from that beneficiary.

The third party accounts and their analytics reveal to which budget those taxes are due, from the collection of taxes and social contributions.

I have already expressed by reserves regarding the way in which the law maker has understood to structure the third party accounts regarding the reflection of the taxes in the financial accounting of the judicial person. I believe that a possible modification of the account plan of the financial accounting must be taken into account.

As a last thought we underline once again the importance of the taxing instruments and not only in the case of engagement bookkeeping of the two systems, the financial bookkeeping and the public one. This is because they are primary real documents on one hand and they are the form in which the exterior fluxes manifest in most of the cases, on the other hand. So, a correct communication in the interference zone, by this taxing vector, this is the premise regarding the evaluation and the correct recognition of the obligations and the duties of the two participants at the taxing process.

After making the first informational – accounting flux which has lead to the making the own taxing management of the tax payer and to those from the ANAF structures and the administrative - territorial units, the second most important flux is that of charging, of closing in one way or the other the budgetary debts made by those financial managements.

We could state, without being wrong, that this flux, this second phase of the taxation, the collecting is more difficult and much more windy than the first flux, which was described in the 6 chapters of the paper.

This second flux, that of deleting the taxes is made by the tax payers who are aware of their duty of tax payers, by paying the debts that they have for the state out of their own will.

The effective payment of those duties can be made either by money transfer from the open accounts or at the state institutions, the Treasury, or by cash. According to these two ways of payment by the tax payers, in the banking institutions or at those of the state Treasury, different financial fluxes are generated but they all lead eventually at the same purpose, that of deleting the tax payer's debts.

These payments of taxes for the state, made by their own will, by the juridical persona or the natural ones, generate treasury fluxes in the patrimony of the economic agent. These are under the form of outing by the financial resources by the "banking accounts" or the "registry" on one hand and the reduction or the deletion of the taxes by the state, things which are reflected in the tax payer's duties towards the general budget's components which was consolidated in the moment of their quantification.

As an example, the payment of the profit tax is outlined by debiting the 441 account, "The tax profit" and the crediting of the 5121 account "Lei deposit account" or the 5311 account "The lei registry".

The payment of this deposit, in our example, denotes deleting the obligation that the tax payer had for the state on one hand and the fact that the tax payer's patrimony or taken by financial resources, in equivalent, money from the account or cash on the other hand.

Taken separately from the deleting of the taxes by direct payment, these (obligations) can also be deleted by cancelling, prescription, diminishing with the help of administrative contestations or compensation.

According to the deleting of the other ways of deleting the taxes than by direct payment, reducing or diminishing the obligation in the tax management of the tax payer, they take place based on some specific bookkeeping for these operations, such as.

- Deleting from the tax management the taxes which are on the verge to be deleted after some financial controls, on the administrative way as the contestations or on the extinctive prescription which takes place by keeping the initial records:

cls.6xxx = cls.4xxx (operation in red)

- Reducing the tax payer from the taxes by compensation. Accounting records take place on the accounts by third party people, deleting on one hand the right of debiting on the state with a payment obligation at its disposal ;
- Also, in the case of VAT, the compensation among the negative VAT sum, account number 4424 "Repaid VAT" and that of payment, account number 4423 "Payment VAT" is outlined by outgoing records made by the two accounts (4423=4424) or in the case of compensation the negative VAT sums, having other debts than the general consolidated budget by deleting the right of debiting the VAT with respective obligations, with the help of third party accounts (cls.4xx = 4424,,reimbursed VAT").

CONCLUSIONS

In conclusion, the tax payer's tax management is generated objectively by its obligation to know at any moment which are the debts that the consolidated budget has, either it is about the central or the local administration or about the way in which the sold of this management, by payment or other ways which have been outlined earlier.

It must be said that the tax management that the tax payer is obliged to make, as well as their dynamic revolution is permanently under a state of control and monitoring by the help of tax management which are organised and led by each tax payer individually and partly by the ANAF structures and the local fiscal authorities.

There also has to be mentioned the role and the importance that the computerised - accounting system has, regarding the financial claim, that is that which was constituted by the financial accounting, the public one respectively of the budgetary claims for the ANAF structures and the financial organisations of the local public authority. In this respect, we have in mind the revision of the general accounting plan and its correlation with the structure of clarifying the public finance indicator for giving in an unitary way, the information and agreement the date in the easy way.

The treatment for the accessories that is the interest, fines and penalties could be revised in the tax payer's financial management by recording on the accounts' analytics by which the main obligations are recognised, achieving in this way the harmonisation of the data content and a better communication between the tax payer and the fiscal administration.

We cannot conclude without stating that at least for now the safest computerised support for the tax users remains the financial management lead by the tax payer. For so many times, the management of the debts lead by the public administration offers incorrect information and require permanent communication with the tax payer, loss of time various material consumes, on one hand and on the other a reason why we think is necessary to create a non -stop access software on the fiscal claims of the two fiscal actors, the tax payer and the public administration.

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