

Tax Principles Between Theory, Practice and Social Responsibility

The Case of Romania

Narcis Eduard Mitu and Cristian Stanciu

Abstract In a world where tax becomes increasingly more important, building a modern, stable and highly efficient tax system represents a desideratum of any government. Building tax policies on solid foundation creates the possibility of a healthy economic and social development generating welfare. In this context, the role of taxation principles is highly important. They can provide a healthy climate in which tax settlement and collection would correspond both to social-economic objectives of the State tax policy, as well as to taxpayers' interests. At the national level, along with the introduction of the Tax Code, there has been an outline, in terms of legislation, of taxation principles which represent the foundation for the functioning of the domestic fiscal mechanism. Theoretically these principles exist having a certain legal form. However, practically, according to the study within this article, taxation principles seem to be a form lacking content.

1 Introduction

Tax policy is an essential component of the budgetary policy, being a concrete form of the State intervention in the economy. This one, together with the monetary policy, represents the main tool available to public administration which may lead to changes in the economic climate in a State Horton and El-Gainay (2009).

Tax policy is the one that outlines a State conception, measures and actions regarding taxes, fees and contributions, viewed as a tool of stimulating economic growth as well as their role in income constitution and budget expenditure financing (Dobrotă et al. 1999, p. 256).

Public decisions are the result of lengthy transactions between public interests and private ones, between those who take decisions and those who execute them. An important role in maintaining a balance between the two poles of influence lies with the tax policy applied by each State. Musgrave, R. A. and Musgrave, P. B.

N.E. Mitu (✉) • C. Stanciu

Faculty of Economics and Business Administration, University of Craiova, Craiova, Romania

e-mail: mitunarcis@yahoo.com; valeriu.stanciu@gmail.com

(1984) identify three basic functions of the tax policy: allocation, redistribution and macroeconomic stabilization, through which the equilibrium state can be reached.

The allocation function is manifested mainly when the State has to intervene in the economy in order to correct the phenomenon of market failure by the efficient and optimal allocation of financial resources, especially to areas avoided by the private capital (culture, education, justice, national defence).

Redistribution function makes reference to the State involvement in economy by adjusting, depending on its interests, income or wealth made by economic transactions. To fulfil this function to the best possible, tax policy must satisfy a series of requirements: efficiency, by stimulating all economic agents in obtaining positive results in the economy; solidarity (social justice), by supporting those who temporarily pass through difficult times; equity and equal treatment.

Stabilization function, aiming at achieving a high level of employment, price stability, a solid situation of external balance of payments, as well as an economic growth rate, is carried out by strengthening the legal framework enabling the conduct of economic activities in optimal conditions.

At the global level, for carrying out these functions, either as a response to unexpected economic shocks, or as a result of a poor management or some structural changes in the long term, it is envisaged the need for a tax paradigm adjustment (Braşoveanu 2007, p. 177).

This tendency of tax adjustment and readjustment has recently manifested, increasingly strongly in Romania. With regard to the tax policy applied in transition countries, Regling (2002) considered that it should stimulate the development of a growing environment, but at the same time it should generate optimal conditions for the development of the private sector.

A tax system can be considered reasonable if it is organized and operates based on certain principles. Taxation principles should provide an environment where the settlement and collection of taxes correspond both to social and economic objectives of the State tax policy in that period, as well as to taxpayers' interests.

From this perspective, hereinafter we shall make a critical analysis of recent changes brought to the formulation and definition of the domestic taxation principles, with the attempt to identify if they correspond to the factual reality and to what extent they can generate a tax policy designed to create an environment favourable to economic development.

2 Taxation Principles According to the Fiscal Code: Critical Approach

Attaining the social and economic objectives proposed by the State involves the implementation of the undertaken tax policy. For this purpose, it is necessary that there are certain directions (principles) that would require from all participants to the tax approach, a single, unitary and unequivocal conduct (Găină 2008). Some of

Table 1 Taxation principles in the old and new Fiscal Code

Principles of taxation according to Law No. 571/2003 regarding the Fiscal Code	Principles of taxation according to Law No. 227/2015 regarding the Fiscal Code—the New Fiscal Code
<p>(a) <i>Neutrality of the fiscal measures</i> as regards the various categories of investors and capital, forms of ownership, by ensuring equal conditions for investors and for Romanian and foreign capital;</p> <p>(b) <i>Certitude of taxation</i>, by developing clear legal norms, that do not lead to arbitrary interpretations, while the deadlines, manner and amounts payable are clear for each payer, respectively such payers may follow and understand their fiscal burden and may determine the impact of their financial management decisions on their fiscal burden;</p> <p>(c) <i>Fiscal equity</i> at the level of natural persons, by different taxation of incomes based on the size of the incomes;</p> <p>(d) <i>Efficiency of taxation</i> by providing long-term stability of the provisions of the Fiscal Code, so that such provisions do not lead to unfavourable retroactive effects for natural and legal persons, in comparison with the taxation in force on the date when they adopt major investment decisions.</p>	<p>(a) <i>Neutrality of the fiscal measures</i> as regards the various categories of investors and capital, forms of ownership, by ensuring through the level of taxation equal conditions for investors and for Romanian and foreign capital;</p> <p>(b) <i>Certitude of taxation</i>, by developing clear legal norms, that do not lead to arbitrary interpretations, while the deadlines, manner and amounts payable are clear for each payer, respectively such payers may follow and understand their fiscal burden and may determine the impact of their financial management decisions on their fiscal burden;</p> <p>(c) <i>Justness of taxation or fiscal equity</i> ensures that the fiscal burden of each taxpayer is established based on the contribution power, respectively depending on the amount of its income or properties;</p> <p>(d) <i>Efficiency of taxation</i> ensures similar levels of budget income from one budget year to another by maintaining the efficiency of taxes, fees and contributions in all the phases of the economic cycle, both during the periods of economic boom, as well as in crisis periods;</p> <p>(e) <i>Predictability of taxation</i> ensures the stability of mandatory taxes, fees and contribution, for a period of time of at least 1 year, where no changes can occur in terms of the increase or introduction of new mandatory taxes, fees or contributions.</p>

these have been expressly stated in the domestic law, and others, starting from the reality imposed by practice, have been consecrated and developed by the Romanian and European legal doctrine.

The recent amendment of domestic tax legislation (Law no. 227/2015 on the Fiscal Code, published in the Official Gazette no. 688/10.09.2015 and Law no. 207/2015 on Fiscal Procedure Code, published in the Official Gazette no. 547/23.07.2015), with applicability starting with 2016, brought a new outline of the basic principles on which the tax system is built (Table 1).

Neutrality of the Fiscal Measures According to the definition of the Fiscal Code, the principle of neutrality of the fiscal measures stipulates that the tax must generate equal conditions to all categories of taxpayers. In other words this principle involves equal tax treatment, the tax shall be determined according to unitary rules for all taxpayers, without direct or indirect discrimination.

From the perspective of the definition given, the principle of the neutrality of fiscal measures is, in Romanian fiscal practice and the European fiscal practice, probably the most well respected principle, because the European Union, by its Court of Justice (ECJ), limits as far as possible the discrimination of non-residents towards residents.

The European Commission, in a Communication to the Council, the European Parliament and the European Economic and Social Committee (2010), bearing the title “Removing cross-border tax obstacles for EU citizens” notifies that the European citizens are often fiscally disadvantaged because of the location of their investments of assets, of the activity carried out or because of lack of information regarding fiscal rules and the rights and obligations arising thereof etc.

Ever since 2014, as shown in the study “Tax Reforms in EU Member States” but also in a press release (retrieved from: http://europa.eu/rapid/press-release_IP-14-31_en.htm), the European Commission announced that it was carrying out an analysis on the fiscal regulations in all Member States in order to make sure that mobile European citizens are not discriminated by the national tax systems.

In the press release already mentioned, Algirdas Šemeta, Commissioner for Taxation, Customs, Anti-Fraud and Audit, said: *EU rules are clear: all EU citizens must be treated equally within the Single Market. There cannot be discrimination, and workers' right to free movement must not be impaired.* However, tax obstacles remain one of the key deterrents to EU citizens leaving their State of origin to look for work in another Member State. Tax obstacles may arise either in the State of origin or in the new State of residence. The most recent example in this respect is the Agreement (on the terms to maintain Great Britain in the European Union) of February 19, 2016, signed in Brussels before BREXIT, that allowed Great Britain to activate “the emergency brake” in order to limit for 7 years the awarding of social benefits to EU citizens (non British) entered on labour market from the Member States.

Due to the special attention the European Union manifests for the compliance with this principle and because of an attraction, often too high, that the government, at national level, has for the foreign capital, in certain circumstances there occurs the positive discrimination phenomenon, where the foreign taxpayer enjoys a more permissive treatment than the domestic taxpayer (phenomenon described by Ziarul Financiar, 2016, April 03, electronic edition).

There are, therefore, situations where a Romanian resident (natural or legal person) is fiscally disadvantaged compared to a foreign one.

However, the neutrality of fiscal measures shall have to manifest not only vertically (between domestic and foreign taxpayers), but also horizontally (between different domestic taxpayers).

From this perspective, we consider that neutrality is not complied with, because, even the law in question (Fiscal Code) and the related ones (see GEO no. 44/2015 on granting tax incentives/Official Gazette no. 785 of October 21, 2015), describe measures that generate differentiated treatments that influence or shape the behaviour of the taxpayer, unbalancing the fiscal environment. Thus, aids and tax facilities granted, most often to non-paying taxpayers, are outside the scope of

fiscal neutrality, thus generating discrimination. As Voltaire once said: *in the matter of taxation, every privilege is an injustice* (Yablon 2008, p. 40).

This type of discrimination is very dangerous because it can cause malignant phenomena. Fair taxpayers (good payers) will refuse to pay taxes (practical examples are countless) as long as those in default of payment are “rewarded” by granting them rescheduling, reductions or even tax exemptions.

Neutrality of fiscal measures should ensure a climate that does not facilitate modelling the taxpayer’s behaviour to fall within specific conditions that allow the establishment of a fiscal burden lower or even zero (Biriş 2012, p. 22). For this reason it is necessary that in the fiscal legislation the number of exceptions from taxation rule to be reduced to a maximum, otherwise, in practice, the principle of neutrality of fiscal measures shall become a principle lacking relevance.

Certitude of taxation, according to the text in the new Fiscal Code, aims at ensuring the elaboration of clear legal norms, which do not lead to arbitrary interpretations from the participants to the fiscal act. The principle of certitude shall ensure to the taxpayer the conviction that interpretation of fiscal legislation is consistent, uncontroversial and it shall similarly apply in all cases of the same kind.

Fiscal reality has revealed that in Romania this is the type of principle written exclusively for its theoretical relevance. In practice, the professionals in the tax field often complain that the law is unclear, limited or confusing, raising numerous questions regarding its application (Bufan et al. 2008; Mitu and Mitu 2012; Biriş 2012; Croitoru 2015; Buziernescu 2016).

The recent controversies generated by the ambiguity of fiscal provisions as regards taxation on mixed-purpose buildings (residential and head office), or those concerning the obligation to contribute to social health insurance even in case where individuals have no income, are conclusive examples demonstrating the lack of clarity of the legal framework.

It is the legislator’s responsibility for the taxpayer’s obligations to be clearly set out, and when this does not happen, it shall be required that the weakest to be protected: unclear provisions shall always be interpreted in favour of the taxpayer and against tax authorities (Biriş 2012, p. 23).

Practice has however proven that until present time numerous fiscal provisions have been differently interpreted and applied by the very representatives of the same tax authority. This fact generates multiple abuses even from the bodies responsible for ensuring compliance with the tax principles and norms.

Starting with 2016, along with the entry into force of the new Fiscal Procedure Code (Law No. 207/2015 regarding the Fiscal Procedure Code); there appears an absolute novelty element in domestic tax legislation—the principle “*in dubio contra fiscum*” (in case of doubt regarding the fiscal norm, interpretation favours the taxpayer). The principle “*in dubio contra fiscum*” represents transposing in taxation of a principle derived from the post-classical Roman law (Codex Theodosianus), namely “*in dubio pro reo*”—unclear provisions are favourable to the person committing itself, namely the weakest in a contractual relation (Dobrev 2012).

But what is the sanction if this desideratum is not achieved, if, despite the principle “*in dubio contra fiscum*”, the legislator wrote provisions that may give

rise to various interpretations? In what manner is the tax authority liable before the law when incorrectly applying the law? In this moment, the only one sanctioned is the taxpayer, who if he did not properly understand the provisions of the law, it shall be required to pay both the tax, the tax difference as well as interests, penalties or late payment fees.

Justness of Taxation or Fiscal Equity The principle requires that the tax burden of each taxpayer to be established based on the contribution power, respectively depending on the amount of its income or properties.

As currently described in the new Fiscal Code, the principle justness of taxation or fiscal equity does not distinguish between the types of taxes. When defining the principle, it seems that the legislator forgot that fiscal theory, based on the substance and form features, groups (classifies) taxes in direct taxes and indirect taxes (Văcărel et al. 2003, p. 377).

The basis for calculating indirect taxes is the price of the asset, as appropriate, the fee for the service provided. The tax calculation is made proportionally or in fixed amount. Consequently, a characteristic of indirect taxes is the fact that they do not take into consideration the taxpayers' contribution power. The size of the tax is the same for all consumers of an equal quantity or size of an asset, respectively of a service (Florescu et al. 2010, p. 9).

Characteristic for indirect taxes is the fact that they burden taxpayers with low payment capacity and favour those with high payment capacity (Văcărel 1998). Therefore, the principle of fiscal equity may not be applied to indirect taxes, as they do not take into consideration the contribution power, the size of income or the property of taxpayers.

Another problem raised by the presence of this principle in the new Fiscal Code, is represented by the "conflict" that occurs between proportional rates taxation system (uniform taxation or "flat-rate"), currently used for the income tax and corporate tax and the fiscal theory regarding fiscal equity.

Fiscal equity, as a concept, means social justice in terms of taxes (Văcărel et al. 2003, p. 361). When we make use of the spirit of justice in the distribution of tax burdens among members of society, we should make the distinction between the concept of *equality before tax* (tax neutrality) and the concept of *equality in tax*.

Conceptually, fiscal equity expresses the idea that all citizens of a State have to pay taxes according to their contribution capacity. This means that people with the same contribution have to bear equal taxes, which provides *horizontal equity*. At the same time, it assumes that citizens with a greater contribution capacity shall have to pay higher taxes than those with less power, ensuring a kind of *vertical equity* in taxation (Aronson 1977; Țătu et al. 2006; Toma 2009a).

There is a highly widespread opinion in tax theory, according to which taxation in proportional rates expresses a manifestation of the principle of equality before taxes, maintaining a constant ratio between income and tax, but, at the same time violates the principle of fiscal equity since it fails to take into consideration that the contribution capacity increases along with the increase of incomes obtained by different social groups (Inceu 2005; Voinea and Mihăescu 2009; Armeanu 2010; Matei et al.

2013). Considering this argument, Chand (2008, p. 118) notes that *the proportional tax system does not satisfy the important canon of equity and justice in taxation*. In the proportional tax system, all incomes are taxed at a single uniform rate and it does not matter if the tax-payer's income is high or low. Therefore, the main disadvantage of proportional tax system is that the burden of tax falls more heavily on the poorer sections of the society (Chand 2008; Schiau and Moga 2009, p. 344).

The proportional taxation system (specific to income/corporate tax currently applied in Romania), compared to the principle of justness of taxation or fiscal equity, as defined in the new Fiscal Code, creates great ambiguity regarding the forthcoming philosophy of taxation of income/profit.

According to Biriş (2012), this principle was introduced in national tax law with a view to justify progressive rates system existing at the time the old Fiscal Code (Law no. 571/2003) was adopted. Since 2005, the tax system has changed, by the introduction of proportional rates (the so-called "flat rate").

If desired, at the political decision level, strengthening the current system (the flat rate) it is necessary a replacement of the principle in question (the fiscal equity) with another one, called in the tax theory: the principle of proportionality. Biriş (2012, p. 25) defines taxation proportionality as representing *taxation at a single rate of all taxable income earned by natural persons or legal entities*.

Otherwise, we can interpret that maintaining in the current Fiscal Code the equity principle as defined in the period of operation of the progressive rates system, does nothing more than to prepare a readjustment of future fiscal policy.

In the context where, among the existing taxation systems, the most equitable taxation system seems to be the one based on applying compound progressive rates (by installments) (Inceu 2005; Toma 2009b, p. 72), it may be possible in the future, the compound progressive rates to replace the current system of the "flat rate" (proportional rate).

Consequently, taking into consideration the obvious lack of equity of real direct taxes (tax on land, buildings, etc.), we consider it appropriate to detail and redefine the principle taking into account both the characteristics of different types of taxes used by the national tax system, as well as the way of taxation intended to be used in the future (proportional rates or progressive rates).

Nevertheless, this should be done with extreme care as the concept of equity, in a strict interpretation, may seriously damage the other principles.

Efficiency of Taxation As described in the current legislation, the principle of efficiency of taxation aims at ensuring similar levels of budget income from one budget year to another by maintaining the efficiency of taxes, fees and contributions in all the phases of the economic cycle, both during the periods of economic boom, as well as in crisis periods.

In our opinion this definition lacks any mathematical logic.

How is it possible, for example, given constant efficiency ("maintaining efficiency"), to obtain the same level of budget income ("similar levels") both in times of crisis, when the amount of taxes, fees and contributions decreases, as well as in

times of economic boom (when, by efficiency maintaining, but reported to a higher taxation base, budget income should increase)?

Obtaining similar budget incomes (synonyms: resembling, identical, close, according Seche and Seche 2002) both in times of crisis, as well as in economic boom periods can be achieved either by adjusting the taxation base, or by adjusting, modifying the efficiency of taxes, fees and contributions (tax elasticity). However, frequent changes imposed by the increasingly volatile current economic environment (where periods of crisis and economic boom periods are succeeding at great speed), contradict the following principle imposed by the new Fiscal Code: predictability of taxation.

We believe that a correct definition of efficiency of taxation must consider the real situation of several elements: the taxation system; the fiscal apparatus; the fiscal legislation.

The taxation system must ensure the stability of taxes, fees and contributions, to propose an optimal level of taxation that does not hinder economic activity and does not aggravate the material situation of the population.

The fiscal legislation is required to establish clear and efficient legal norms of setting out taxes and penalties for non-compliance with fiscal discipline.

The fiscal apparatus should guide the training activity of its staff, but also counselling of taxpayers, it should coordinate the settlement and correct collection of taxes.

Furthermore, the efficiency of taxation implies that the collection of taxes, fees and contributions to be made with minimum expenditure, at a level as more acceptable as possible for taxpayers.

From the perspective of the aforementioned, we believe that the efficiency of taxation should be defined in a totally different way than it is done at present time. Therefore, we agree with Biriş (2012) who considers that when questioning the effectiveness of taxation *we should firstly refer to the cost/benefit ratio, the ease of calculation, statement and payment of taxes.*

Predictability of taxation is the newest, but also the most expected principle of Romanian taxation system. It was introduced in the national fiscal legislation only on January, 1, 2016, along with the entry into force of the new Fiscal Code.

It is almost an axiom that a characteristic of a good and healthy business climate is represented by the stability and predictability of the regulatory framework, in general and the tax framework in particular.

In 2009, a Deloitte study entitled Romanian fiscality—“The radiography of an incomplete reform” identified, among the most desirable priorities that the Minister of Public Finance should consider in setting out the agenda of fiscal policy, not so much fiscal incentive measures, but primarily measures designed to remedy the existing situation in the real economic environment. Therefore, the business environment outlined the need for the authorities to pursue a medium and long term fiscal strategy and focus its efforts on reducing the frequency of legislative changes. Approximately 34% (first place among priorities) of the entrepreneurs participating in the study claimed that the premise for a tax environment favourable to business development is the stability of the legislation. Only in this way, the business

environment can establish and follow a coherent strategy and a sustainable budget. Furthermore, 22% of the participants in the study (second place, among priorities) were in favour of the introduction of clear procedures for tax administration.

As well, the study “The development strategy of Romania for the next 20 years” (Vlad et al. 2015, p. 451, 461, 474), a project of the Romanian Academy, which refers to the fundamental challenges of the Romanian society, identifies in the fiscal policy field, as the main weakness, the fiscal and legislative instability.

In 2016, another study (now at its first edition), conducted by EY (Ernst & Young) Romania in association with Raiffeisen Bank, entitled “Entrepreneurs Speak Out—The Romanian Entrepreneurship Barometer”, sets on the first place (70% of respondents) in the top of the biggest obstacles in creating and developing a business in Romania, the lack of a clearly correlated and stable fiscal and legislative framework.

Even though the academic and business environment emphasize the importance and necessity of the strict observance of this principle, the manner of its transposition in reality shows that in Romania, in the fiscal system and not exclusively, there is a significant discrepancy between theory and practice.

In an analysis conducted by Ziarul Financiar (2013, November 25), with reference to the old Fiscal Code, Jurubiță, partner, deputy head taxation services at KPMG audit and consultancy company, says that *of the 298 articles of the initial version of the Fiscal Code, only 25 articles have not undergone any change over the almost 10 years of its existence. Among these, most of them refer to general principles and rules.* The old Fiscal Code, published in December 2003 and entered into force at the beginning of 2004, has undergone in 12 years, over 120 main changes which have shown the lack of predictability and stability of the fiscal legislative framework, the investors often finding themselves in the position of reassess their medium and long term plans, simply because of fiscal reasons, not business.

Unfortunately, the lack of predictability and stability are perpetuated even after the implementation of the new tax legal framework. Thus, since its adoption, the new Fiscal Code has been amended (by the time of writing this article) eight times, without taking into account the auxiliary legislation which refers to the implementation rules and declarative fiscal documentation. Moreover, four of these normative acts were published even before the law would effectively enter into force.

The lack of stability of the legal framework seems to be a feature of the future as well. An example in this regard is the idea advanced on February 22, 2016 by the Prime Minister Cioloș in a meeting with local authorities, at the General Assembly of the Association of Communes in Romania. Thus, the transition to a new taxation system based on the market value of the properties represents the solution brought in debate for supplementing financial resources of local budgets.

Furthermore, there are in discussion other two changes of the domestic tax framework: reducing the social security contributions (CAS) by 5 percentage points and introduction of a tax specific to tourism industry (calculated per each tourist unit in part, based on some formulas taking into consideration several conditions,

among which the area where the hotel/guesthouse is located, the number of accommodation places, etc.).

In the case of Romania, if we were to introduce into the equation the political and economic instability characteristic to this period, both globally as internally, it is possible that this principle (predictability and stability of taxation) is another example of a statement fully justified in theory, but inapplicable in practice.

3 Can Taxation Generate Social Responsibility?

The evolution of the Romanian fiscal system has been slow, non-transparent, circumstantial and frequently interrupted by legislative changes.

Instability and lack of coherence of the tax system have affected the strengthening of accumulations both of taxpayers, as well as of the tax authorities.

The crystallization process of clear, stable and competitive fiscal principles, at domestic level, proves to be a cumbersome initiative, with major deficiencies of implementation and deep effects in the taxpayers' behaviour.

The lack of clear landmarks has led in tax practice to a certain perpetuation of some vitiated behaviours which, in time, led to the dilution of taxpayers' confidence in the institution of tax, adversely affecting their cooperation with authorities and compliance with tax obligations.

Taxes, fees and contributions are also an instrument of "social engineering", a means to encourage or discourage certain behaviours, so the principles underlying a healthy fiscal system should be built, primarily on ethical grounds that encourage social responsibility. But traditionally in Romania, incorporating fiscal policy in a social responsibility agenda has been sporadic and often hindered by the pressures existing between stakeholders and public institutions that manage and collect tax liabilities. Since tax obligations are seen as a transfer between stakeholders and the State, it is difficult for a corporation to disclose the obligations values owed to the State (Desai and Dharmapala 2005).

A study conducted in the USA (Watson 2011) highlights an inverse relationship between corporative social responsibility and fiscal aggressiveness (incisiveness) (differences between accounting and fiscal values, effective tax rates). Overall, the proof provided in this study sustain the idea according to which there is an inverse relation between corporative social responsibility and fiscal aggressiveness, and the social responsibility activities affect tax statements of the company.

The State may opt to fulfil certain social responsibility actions on its own or it may delegate them to the private sector, if it considers it is more effective in their implementation. But, in a market economy, the State shall rarely require in a direct manner to its private agents to carry out corporate social responsibility actions (Vintilă et al. 2012).

The principles of taxation represent a subject of dispute and controversy because, from one period to another, from one school of thought to another, from one author to another, interests and objectives are different. Principles can be

interpreted in different ways, depending on how we treat and understand the interests, often divergent, of the two participants in the tax equation: the taxpayer and the State.

There is a permanent contradiction between the need of State of financial resources as consistent as possible, secured by a high fiscal efficiency and the low willingness of taxpayers to provide these resources. Thus, in terms of efficiency, taxes should bring more money in the public treasury, and in terms of tax equity, tax must take into consideration the personal situation of each taxpayer. Unfortunately, what is equitable has a reduced efficiency and, most of the times, which has a high efficiency is not equitable (productive taxes are not fair, and fair taxes are not productive) (Buziernescu 2006).

Nevertheless social responsibility can add consistency and can ensure a balance between the interests of taxpayers and those of the State. Therefore, the construction of a modern tax system and good fiscal governance must be based on principles enabling and encouraging social responsibility actions on the part of taxpayers.

Thus, we believe that introducing a principle of social and economic policy in the category of tax principles can only be beneficial.

According to this principle, it should be expressly provided in granting tax benefits to all organizations that are considering actions to support social responsibility. Thus, for taxpayers who employ persons with disabilities and adapt their work place according to their needs, for those engaged in activities of environmental protection, activities promoting sports and culture etc., there must be a fiscal approach to support, permanently sustain and encourage such actions.

Such a principle would require the use of elastic taxes, easily adaptable to the needs of the society, to act as a lever for the development of taxpayers' appetite for social responsibility actions.

4 Conclusion

The performance and health of the economy of a state fundamentally depend on a mix of complementary policies (trade, monetary, salary, tax, etc.). From the perspective of developing a competitive economy, fiscal policy has a duty to harmonize the rigors of the macroeconomic stability with the objective of sustainable growth.

In the European context, even if in terms of the rates applied, the national taxation seems appealing, Romania cannot become more competitive if things continue to be complicated in terms of fiscal foundation. A sound fiscal policy requires that the theoretical bases to be clear and stable.

The principle "less is more" might work very well in taxation as well. The relationship between the State and the taxpayer must be based on simple, clear rules, which are easy to understand and implement. Taxation should be transformed into an instrument of national development (on a long-term) and not into an

instrument to satisfy some particular interests (on a short term). *We cannot have a stable fiscal code if tax rules are undermined by exceptions* (Biriş 2012, p. 28).

More than being written, principles must be respected. We believe it is necessary to find a proper legal way by which in the future the change of tax laws nucleus should be possible only pursuant to the law and based on the existence of a reasonable period of time from the time of decision to be changed until the effective entry into force.

Regarding the possibility to amend and supplement the Fiscal Code, the current legal framework (art. 4 par. 1, 2, 3, 4) is still highly ambiguous. The paragraph according to which the Code *shall be amended and supplemented pursuant to the law, which enters into force no sooner than 6 months after publication in the Official Gazette* is cancelled by the following paragraph, which states that *amendments and/or supplements are adopted by ordinances, it is possible to provide shorter deadlines for entry into force*. Therefore, the imperative “shall be amended and supplemented pursuant to the law” is cancelled. It is thereby reinforced the highly damaging practice that makes a normative act of utmost importance to be further amended by the same State body which also shall enforce it. Therefore, the executive is the one who makes the rules of the game it plays. In our opinion it flagrantly violates at least two principles: the certitude and the predictability of taxation.

A stable fiscal policy directed to economic and social development requires the existence of the capacity and the will to set out priorities and observe them.

Numerous fiscal behavioural studies (Braithwaite 2002; Cardozo 2011; Congdon et al. 2009, 2011; Wenzel 2005, etc.) show that in their vast majority, taxpayers “make abuse” of the law whenever a breach is identified, but this is understandable because almost no one feels pleasure in paying taxes and fees. But it is the responsibility of the legislator for tax principles and obligations of the taxpayer to be clearly defined, and when this does not happen it is required that the weakest should be protected: unclear provisions must always be interpreted in favour of the taxpayer and against the tax authority (“in dubio contra fiscum”).

It is expected that a stable tax system, which is based on solid principles, correctly implemented, as well as the mitigation of bureaucratic constraints of the system (which cause serious disruption to the economic activity) shall stop the migration of economic agents towards the underground sector, even stimulate the “getting out” of a bigger part thereof. Fiscal transparency is an essential prerequisite for enhancing the government performance, the consolidation of public finances and attaining the mandatory desideratum of any government: the fullest possible satisfaction of the taxpayers’ requirements.

References

- 10 ani de Cod fiscal: 100 de modificări legislative și un text de trei ori mai lung. (2013, November 25). *Ziarul Financiar*. Electronic edition. Retrieved October 18, 2016, from <http://www.zf.ro/zf-24/10-ani-de-cod-fiscal-100-de-modificari-legislative-si-un-text-de-trei-ori-mai-lung-11718563>
- Armeanu, D. (2010, July 26). Impozitare progresivă versus cota unică. *Ziarul Financiar*. Printed edition.
- Aronson, J. R. (1977). Some comments on fiscal equity and grants to local authorities. *Economic Journal*, 87(348), 774–779.
- Biriș, G. (2012). *Despre fiscalitate și competitivitate: principii, probleme, soluții*. București: Universul juridic Publisher.
- Braithwaite, V. (2002). Dancing with tax authorities: Motivational postures and noncompliant actions. In V. Braithwaite (Ed.), *Taxing democracy. Understanding tax avoidance and tax evasion*. Aldershot: Ashgate.
- Brașoveanu, L. O. (2007). *Impactul politicii fiscale asupra creșterii economice*. București: ASE Publisher.
- Bufan, R., et al. (2008). *Codul fiscal comentat*. București: Wolters Kluwer Publisher.
- Buziernescu, R. (2006). Cota unică de impozitare: Speranțe și împliniri. *Finance-Challenges of the Future*, 5, 154–159.
- Buziernescu, R. (2016). *Fiscalitate – teorie și aplicații practice*. Craiova: Universitaria Publisher.
- Cardozo, M. H. (2011). Taxpayer attitudes vis-a-vis the tax administration: Differentiate and classify behaviors, Case Studies, Tax morale as determining factor in improving the effectiveness of the tax administration. Published by Inter-American Center of Tax Administrations – CIAT, 45th CIAT GENERAL ASSEMBLY, Quito, Ecuador, pp. 211–230.
- Chand, S. N. (2008). *Public finance* (Vol. 1). India: Atlantic Publisher.
- Congdon, W., Kling, J., & Mullainathan, S. (2009). Behavioral economics and tax policy. *National Tax Journal*, LXII(3), 375–386.
- Congdon, W., Kling, J., & Mullainathan, S. (2011). *Policy and choice: Public finance through the lens of behavioral economics*. Washington, DC: Brookings Institute.
- Croitoru, L. (2015). *Cercul vicios al politicii fiscale*. BNR studies. Retrieved October 18, 2016, from <http://www.bnro.ro/Studii,-analize,-puncte-de-vedere-4009.aspx>
- Desai, M. A., & Dharmapala, D. (2005). *Corporate social responsibility and taxation: The missing link*. BSR Leading Perspectives, Harvard University. Retrieved October 18, 2016, from http://media.wix.com/ugd/b391a0_2cbcf4c9530e4290a4735c3e779646da.pdf
- Dobrev, D. (2012). *In dubio contra fiscum. Cenușăreasa principiilor dreptului fiscal*. ... Personal blog. Retrieved October 18, 2016, from <https://dumitrudobrev.wordpress.com/2012/05/21/>
- Dobrotă, N., et al. (1999). *Dicționar de economie*. București: Economică Publisher.
- European Commission. (2010, December 20). *Removing cross-border tax obstacles for EU citizens*. Brussels, COM(2010) 769 final, pp. 1–9. Retrieved October 18, 2016, from <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52010DC0769&from=ro>
- European Commission. (2014). *Tax reforms in EU member states. Tax policy challenges for economic growth and fiscal sustainability* (pp. 1–156). Brussels, Belgium. Retrieved October 18, 2016, from http://ec.europa.eu/economy_finance/publications/european_economy/2014/pdf/ee6_en.pdf
- Florescu, D. A. P., Bălașa, G., & Dogaru, M. (2010). *Impozite indirecte și taxe. Reglementări legale. Jurisprudență*. București: The Universe Legal Publisher.
- Găină, A. M. (2008). Principiile dreptului fiscal - fundament al impunerii fiscale. *Revista de Științe Juridice*, 3, 92–98.
- Horton, M., & El-Ganainy, A. (2009, June). Back to basics: What is fiscal policy? *Finance and Development* (pp. 52–53). International Monetary Fund – IMF. Retrieved October 18, 2016, from <http://www.imf.org>
- Inceu, A. M. (2005). *Pârghiile fiscale și forța lor de orientare*. Cluj Napoca: Accent Publisher.
- Matei, G., et al. (2013). *Finanțe publice*. Craiova: Universitaria Publisher.
- Mitu, N. E., & Mitu, I. E. (2012). *Proceduri fiscale*. Craiova: Sitech Publisher.

- Musgrave, R. A., & Musgrave, P. B. (1984). *Public finance in theory and practice* (4th ed. pp. 6–21). New York: McGraw Hill Book.
- Regling, K. (2002, May). EU accession. Developing fiscal policy frameworks for sustainable growth. Brussels. *The European Commission, the World Bank and the IMF conference*. Retrieved October 18, 2016, from http://ec.europa.eu/economy_finance/events/2002/brussel2/summ_en.pdf
- Schiau, L. L., & Moga, A. C. (2009). The flat tax effects – Theoretical and empirical evidence in western and eastern European countries. *Annals of Faculty of Economics*, 3(1), 343–348.
- Seche, M., & Seche, L. (2002). *Dicționar de sinonime*. București: Litera Internațional Publisher.
- Suntem discriminați la noi acasă. De către statul român. (2016, April 03). *Ziarul Financiar*. Electronic edition. Retrieved October 18, 2016, from <http://www.zf.ro/eveniment/discriminati-acasa-catre-statul-roman-companiilor-straine-intinde-covorul-timp-antreprenorii-romani-aruncati-caini-ani-zile-facem-profit-iar-multinationalele-raporteaza-numai-pierderi-nimeni-le-15195142>
- Țătu, L., et al. (2006). *Fiscalitate. De la lege la practică*. București: C.H. Beck Publisher.
- Toma, E. (2009a). Echitatea fiscală: un principiu în declin? *Studia Universitatis "Vasile Goldiș"*. Economic Sciences Series, Year 19, Part III, Arad, 40–49.
- Toma, E. (2009b, June). Is there social justice through tax? *Alma Mater University Journals. Series A. Economic Sciences*, Vol. 2, no. 2, Sibiu, 69–76.
- Văcărel, I. (1998). Spre o „nouă filozofie” în materie de resurse financiare publice? *Economistul Jurnal*, 60.
- Văcărel, I., et al. (2003). *Finanțe publice* (4th ed.). București: Didactică și Pedagogică Publisher.
- Vintilă, G., et al. (2012). Studiu privind corelația politică fiscală – responsabilitate socială corporativă, General Association of Economists From Romania (GAER). *Economie teoretică și aplicată*, XIX(4), 3–14.
- Vlad, V. I., et al. (2015). *Strategia de dezvoltare a României în următorii 20 de ani* (Vol. I). București: Romanian Academy Publisher.
- Voinea, L., & Mihăescu, F. (2009). The impact of the flat tax reform – The case of Romania. *Romanian Journal of Economic Forecasting*, 4, 19–41.
- Watson, L. (2011). *Social influences on aggressive accounting: The impact of corporate social responsibility on tax aggressiveness*. Session: Disclosure and Tax Aggressiveness, American Accounting Association Annual Meeting, Denver, CO.
- Wenzel, M. (2005). Motivation or rationalisation? Causal relations between ethics, norms and tax compliance. *Journal of Economic Psychology*, 26(4), 491–508.
- Yablon, J. L. (2008, January 7). *As certain as death – Quotations about taxes*, *Tax Notes* (Vol. 118, no. 1). Special supplement. Pillsbury Winthrop Shaw Pittman LLP.