

European Fiscal Policy of Tax Havens

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Abstract: Taxation system is a necessary evil. Almost the entire world admits its utility, but even necessary as it is, the taxation system remains an evil. Fiscal paradises had been born heavily, but they multiplied quickly. In specialization literature, as well as in juridical and economical literature there are few and modest attempts of analysis of fiscal paradises, although a circumscribing of the area that is covered is not difficult to realize. Every state can be used as fiscal paradises for certain persons on the basis of several taxation agreements that provide an auspicious system for certain types of incomes and investments performed by foreigners in the respective country. There is a multitude of possibilities for the decrease of fiscal overwhelming. A legal possibility is the fiscal scheduling using the offshore companies registered in jurisdictions with fiscal paradise status. Fiscal scheduling through offshore company means the election of that type of company that fits for the purpose and interests of the business. There is also the problem of the election of the best jurisdiction in concordance with the purpose pursued. Fiscal paradises represent the fertile ground for the manipulation of taxation basis of the benefits, through utilization of intermediate transfer prices, having as justifiable basis economical transactions, most of the times simulated transactions. The legality, but most of all the ethics of the techniques used are at least controversial.

Keywords: European Union; offshore companies; tax evasion; tax haven

A tax or social Europe does not prevail, therefore disappearances on the subject vary widely, first from one country to another, and on the other hand even in the European Union. Tax havens are a reality today, even in conditions in which efforts to repair such oases, the meaning of their settlement on the same level in terms of taxation with other states.

Tax havens were born hard but multiplied fast. In legal and economic literature there are few and timid attempts at defining tax havens, although a circumscription of the area which they cover is very difficult to achieve. The arrangements also considered handy and most modern and safer to have it safe, some taxpayers, the national tax is a tax haven full installation and conduct business through offshore companies. Tax havens meet first a policy of development and insertion into modernity, on the other hand, they correspond to a capitalist logic of conservation

and are often supported by elements dogged bid. In the context of globalization, tax planning becomes increasingly important not only for companies but also for individuals. Analyzing the states or territories jurisdictions are true tax havens, the Organization for Economic Cooperation and Development has identified a number of the primary factors that may be in sufficiently precise criteria for determining and defining specific areas where practice privileged a tax system. It should be noted that in any tax haven legislation on taxes and fees are absent or insignificant. In terms of the degree of transparency we can say that is across the street from some different way in which tax laws apply on certain categories by taxpayers in a given territory. The method of application of tax law is less transparent and the more information needed to determine the level of tax payable by some taxpayers arrive heavier tax authorities, the closer we are even "in the bosom of a tax haven". (Minea & Costaş, 2006, pp. 273-278)

Specific tax havens it is a secret generally embodied in a hazy lack of communication and refusal to exchange information. At the heart of these exchanges is to how to ensure the confidentiality of tax situations and protect taxpayers' actors (Mănăilă, 2008, pp. 177-179). Tax havens are multinationals which runs through the work at the offshore, individuals who were full of worry and searching for peace lay their money capital, honorably acquired it in secure banks and holders of funds obtained manifestly incorrect or dubious uncertain such as different types of tear or those who derive income from theft, or drug trade.

European Union will take place at the request of Member States, an analysis on the directive 2005/60/EC of the European Parliament and Council Directive on prevention of the use of the financial system for the use and financing of terrorism, known as the Third Money Laundering Directive, which is considered inefficient Since the current Directive provides for the exchange of information between¹ Member States on income from bank deposits but also obtained an exception residents. There namely that the EU states that practice banking secrecy and tax havens outside the EU such as Switzerland, San Marino, have obtained the right to disobey the directive. According to the Economic and Social Committee adopted on 13 November 2009,contacted highlights that many OECD countries and has already achieved the first successes, the 35-member states, including hosting numerous tax havens, which are politically committed to working to ensure transparency and exchange of information in tax matters. Many countries such as

¹ Directive 2005/60/CE

Switzerland, Austria, Belgium, Hong Kong pledged to comply with OECD rules on exchange of information on demand without taking into account the imperatives of national interest or related to banking secrecy.¹

The advantages of tax havens are zero or low taxation for individuals. There are many ways to reduce the tax burden. One way is lawful tax planning using offshore companies registered in tax haven jurisdictions to status. Faced with a fiscal threatening economic growth in Romania looking for all sorts of ways to circumvent IRS. (Mănăilă, 2008, pp. 2-4)

If tax evasion is not only dangerous but also risky use of offshore companies is the ideal way, effective and lawful by taxing a company can be greatly diminished or even eliminated. Moreover, companies specialized in such operations may be possible within 24 hours any citizen of Romania to become the owner of an offshore company. An offshore company can operate under conditions favorable tax only if registered in a tax haven. In accordance with the principle which says that "tax haven" means tax refuge, the company must operate outside the record. Traditional operation of companies in tax havens is supported by a legislative mechanism very well organized, meaning that in that country, the law provides favorable tax conditions for offshore companies. It should be stressed that by not paying the tax the company did not break the law, on the contrary, the law is exempt, partially or totally, the payment of taxes. Offshore companies can be used to reduce the profit to parent companies located in areas of high taxation and transfer those profits to an offshore company. Utilizing offshore investment provides several options when choosing investment targets, which allows the investor to focus on the best projects and to select areas that offer high income potential. Moreover, guarantees confidentiality of transactions completed between the company and customers. Ownership of an offshore company credit opportunity to lead a low credit policy, minimizing the possibility of leading a low credit policy, minimizing taxes on loans and borrowed funds and improve financial and credit services offered to customers. In addition, through an offshore company may grant loans with high interest rates to firms located in an area with higher taxes, thus allowing the transfer of foreign resources in a third country, without breaching tax laws and currency, and reduction or exemption from tax on gains made in a country with high taxation.

¹ Official Journal of European Union

The offshore company may be used joint ventures to minimize taxes. In the same case, the same citizen is the owner and manager of both companies (offshore), one local and one abroad, setting up joint venture together. This creates the possibility of transferring to a third country, the foreign company's profits in the form of taxable dividends. Later, the money can be returned to the country in which the joint venture is registered (in the form of investment and preferential loans).

Contrary to popular opinions, having an offshore company itself does not absolve the owner of all personal tax obligations in their country of origin. An intelligent use of an offshore company, however, may reduce, defer or completely eliminate some taxes that would otherwise have been payable for business. Practical implementation of an offshore strategy will almost always faced with certain laws anti - avoidance that may be in force in the country where the beneficial owner resides or in which it operates. For this reason it is recommended that anyone who considers a registration offshore, primarily to consult with a tax advisor in their country of domicile of the customer and where they place the proposed business operations. For offshore companies, offshore laws of the jurisdiction will generally be considered together with laws and regulations in other countries, especially countries where the offshore company will have sales, contracts and assets. In Romania, most companies operating in offshore areas of the wood industry, agriculture, construction, trade advice, etc..

Income tax zero or very small annual tax return or no relatively simple, low cost of setting up and maintenance and tax on dividends low or even zero, are some of the advantages offered by an offshore company. While working in our country many offshore sites, data on the number and centralize their activity is not anywhere. As a result, are unable to estimate the amounts of money entering or leaving Romania.

There was a slight stagnation in the creation of offshore companies because in 2007 Romania became a EU member, and businessmen have preferred to wait. Multinationals came to Romania through offshore companies and not by parent company. (Postolache, 2009, pp. 355-356)

Advantage - making nice returns. Offshore company can purchase from parent company supplies a ridiculous price and complete offshore contracts for the sale of such goods at a higher price. Thus, the parent company will have a lower income, and as a result and income taxes will decrease. Finally offshore company profits will increase. It also established companies in tax havens may transfer to a third country, without violating any law, foreign company profits, taxable as dividends.

An offshore company may act as an intermediate commercial company, distributors, import / export, purchase or sale. Offshore companies would specifically buy directly from producers and could arrange for goods to be delivered directly to the final customer of the place of production. This may be of particular interest where the goods originate in one country are sold to another, but the principal owner of the transaction is located in another country. (Johnstone, 2002)

An offshore company may be used to purchase a domestic importer to export goods abroad, or offshore company sales can be used by domestic producers to distribute goods abroad.

Commercial profits from the difference between buying and selling prices gained in an environment without tax offshore, are delivered through a fast growing and thus more funds available for re-investment and development.

Private funds jointly held and accumulated by an offshore investment company may be invested or deposited anywhere in the world, and earnings accumulate jump in an environment without tax. Using a private company offshore investment would provide additional confidentiality for investors and investment gains from tax benefits while investing in countries with higher taxes would be subject to withholding tax at source on capital gains. There is sufficient investment instruments that are not applicable Otherwise a tax. Earnings accumulated in an area without tax or low tax division would add flexibility and re-invest.

An offshore company may purchase or may be transferred right to use a copyright, patent, trademark or know - how by their original holders, with power to sub - license and subsequently exploit the intellectual property in various countries. These arrangements must be planned properly, because many countries with high taxes imposed on withholding tax at source for royalty payments. The existence of a treaty to avoid double taxation between the countries involved may reduce such withholding tax.

An offshore company used to be impossible to hold business internet domain names and websites to operate in an environment without tax. An offshore company can be extremely useful for sales activities of any non-material products through the Internet. In fact the operation of a high-tech business, global, internet-based through an offshore base is probably the best implementation of an offshore company, ever existing.

An offshore holding company can be used to hold shares of subsidiaries located in countries with high taxes. Most countries with high taxes imposed withholding tax on dividends paid to non-residents. In these situations there is a double taxation avoidance treaty between the country where the subsidiary is located and which is formed holding company can help to avoid double taxation between the country where the subsidiary is located and which is formed holding company can help to avoid some or all taxes withheld. (Minea & Coștaș, 2006, pp. 81-87)

Many of the difficulties and expenses associated with investing in foreign ownership, such as holiday cottages, can be avoided by using an offshore company to hold title to property. Re - property sales can be made quickly and easily by simply selling shares based offshore holding company. This may save you some legal fees, transfer taxes and duties levied by the state.

Although in our country operates several offshore sites, data on the number and their activity is not centralized anywhere. As a result, are unable to estimate the amounts of money entering or leaving the offshore Romania. Representatives of the firms arranging the establishment of such companies in so-called tax havens argue that there is an increasing number of newly established offshore sites, with activity in Romania in recent years (Johnstone, 2002). More and more businesses are recognizing that the Romans call to a restructuring of business they carry out is necessary to maintain its competitiveness both on the domestic market (import operations products), and the international market (operations export of products, know-how, consultancy). They are also business people working in the area where competition is fierce fight for the preservation of confidentiality of their external suppliers are continuing their business. (Țâțu et al., 2008)

For this, it appeals to some advanced structures of loss of real providers - their employees remain in contact only with the first company that import, so not having access to the actual provider.

In our country's most active offshore in areas such as wood, agriculture, chemistry, construction, consulting, metallurgy, commerce.

In terms of founding an offshore company, it may take between several hours and several months, depending on the jurisdiction chosen. Usually, no need too many acts, in many cases simply a copy of a passport is sufficient. Annual fees for an offshore location also depend chosen, ranging between 1000 and 3000 U.S. dollars.

On how quickly you can establish an offshore by so fast you can and get rid of it.

Each jurisdiction has specific procedures. Normally, closing a company can take up to 3-4 months. Be taken into account the fees payable for the renunciation of an offshore company.

For example, OCRA Worldwide levy a sum of 500 pounds, which covers the expenses, fees and charge. Even authorities and some have come to Romania by multinational offshore, not the parent company. Advantage - making nice returns. For example, offshore company can buy goods from the parent company to a ridiculous price and finalize contracts for offshore sale of goods at a higher price.

Thus, the parent company will have a lower income and, therefore, and income tax will decrease. Finally, the profit will rise. The offshore company also established companies in tax havens may transfer to a third country, without infringing any law, the foreign company's profits, taxable as dividends. Can be controlled offshore sites? The State may request information about offshore sites unless you have evidence of lawless activities (Brezeanu, 2007).

Officials in each country may provide certain information to the Romanian authorities. If the Romanian authorities provide evidence about a company that conducted criminal activities - such as people trafficking, drugs, weapons, terrorism, money laundering - where authorities such jurisdiction, and local banks to lend their bringing to the those involved. If the company's activities that are legal activities, they have nothing to do so.

In essence, consist of offshore mechanisms to establish and address for any legal entity (corporation, holding company) through which business is conducted with other entities domiciled outside the State. One defense is the avoidance of double taxation treaties designed to encourage the declaration of income earned abroad by ensuring non-discriminatory treatment. On the other hand, the so-called tax havens are trying to ensure maximum privacy attracted investors by strengthening the specific legislation.

For many countries in this category, income made from off-shore activities are based on budget revenues, thus strengthening the reputation of the offshore center is a matter of survival.

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