

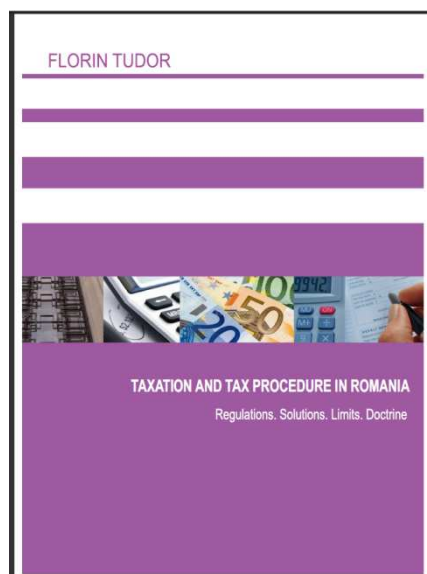
Fiscality and Tax Procedure in Romania

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FISCALITY AND TAX PROCEDURE IN ROMANIA - Regulation. Solutions. Limits. Doctrine,
Florin TUDOR, Galati University Press, 2011, ISBN 978-606-8348-08-7



This study aims to enhance the awareness of contributors in the European area, both physical persons and legal entities, in terms of taxes and contributions due to the general consolidated budget and in terms of corresponding declarative and payment obligations.

The work is also an excellent guide for researchers and teachers interested in studying the Romanian fiscal system and fiscal policy, whereas for auditing professionals it may be considered an introduction to the mechanism of the procedure of fiscal contentious. The monograph helps foreign analysts, who need to take action against fiscal administrative acts, to distinguish between common fiscal procedure, and contentious administrative procedure.

Therefore, an important part of this work, both theoretical and practical, is intended to focus on the international double taxation. With this unique structure, the study should meet the true requirements of readers interested in the domain.

The author in his paper approaches the objectives and principles of fiscal policy. An attentive study of taxation in the European Union shows impressive diversity. The fiscality of each member state, as an attribute of national sovereignty, is the result of the economic and social structures accumulated in time reflecting political choices at a given moment. From this perspective, we believe that tax harmonization remains a challenge, primarily due to the complexity of the matter.

Without a coordinated fiscal policy agreed upon by the member states, the free movement of capitals can encourage financial fraud. Therefore, certain measures are recommended to eliminate the important distortions in the field of fiscality.

Primary EU documents do not stipulate specific provisions on the alignment of direct taxes even if the late period witnessed significant progress regarding the double taxation or the combat against cross-border fraud. However, indirect taxation requires urgent harmonization because the most important values of the Union are infringed, namely the free movement of goods and the freedom to supply services.

Fiscal policy can be defined as the set of measures taken by the tax authority to ensure financial resources necessary for public expenditure. In other words, fiscal policy is an instrument of intervention meant to achieve certain objectives with a positive impact on the global socio-economic system conditioned by social priorities.

A strong point of the paper is the analysis of the competence of the fiscal body. Fiscal bodies have general jurisdiction concerning the administration of fiscal claims, control and issuance of application norms of legal fiscal provisions.

Taxes, fees and other amounts legally due in customs are administered by the customs authorities.

Taxpayer assistance and guidance concerning the uniform application of the legislation on taxes, social parts and other budgetary revenues administered by the National Agency for Fiscal Administration shall be performed by this and its subordinate units.

The fiscal guidance and assistance of taxpayers is provided by: the General Directorate for Administration of Large Taxpayers, the support service for large taxpayers; the General Directorates of Public Finances in counties and in Bucharest, the services/offices for taxpayer support; the public finances administrations, still referred to as PFAs, in cities/towns/villages and in Bucharest, the services/offices/departments for taxpayer support or services/offices/ departments with assistance responsibilities, according to the Regulations of organization and functioning, as the case may be; PFAs for medium taxpayers, the offices/departments for taxpayer assistance; Taxpayers Assistance Center.

For the administration of taxes, contributions and other amounts owed to the general consolidated budget, the competence is that of the fiscal body, at county or local level or in Bucharest, as established by Order of the National Agency for Fiscal Administration in the jurisdiction of which is the fiscal domicile of the taxpayer or of the income payer in the case of taxes and contributions withheld at source, under the law.

A very important issue which is approached by the author in this study is the international double taxation, pointing the general aspects regarding the phenomenon of double taxation and the relationship between the international fiscal conventions and the national law. International double taxation occurs when the tax authorities of two or more states collect simultaneously income tax having the same the tax base, so that a person supports a double tax obligation. In other words, the origin of the phenomenon of double taxation is the action of two or more fiscal sovereignty or the competition between two or more fiscal powers.

The diversity of the international tax systems, peculiarities of national fiscal policies and the tax competition have led to the international double taxation whose negative effects are on the one that obtains income. Viewed from the perspective of a trader, the double or even multiple international taxation affects even the export efficiency, because the tax burden is higher than in cases where the income would be subject to the fiscal legislation from a single state.

The international double taxation may thus affect both the development of international trade, but also the incomes of citizens who provide services in another state. The elimination of the international double taxation is a requirement to ensure further development of the international economic relations.

It is important to clarify this legal issue, to be harmonized and to ensure to the taxpayer the tax situation through common and complete solutions in identical cases of double taxation.

It's important to highlight that the author managed to approach the matter of fiscal obligations in such a way that any person, specialized or not in the field, can understand very easily the general aspects regarding fiscal procedures. The relations between taxpayers and fiscal bodies should be based on good faith in order to achieve the requirements of the law.

The fiscal body shall notify taxpayers on their rights and obligations regarding the procedure according to the tax law.

The fiscal body is entitled to examine, ex officio, the facts, to obtain and use all the information and documents necessary to determine correctly the taxpayer's tax situation.

The fiscal body shall examine the facts objectively.

On request of the taxpayers or on its own initiative, the tax body guides the taxpayers in the application of the fiscal legislation.

The fiscal body is required to apply unitary the fiscal legislation in Romania, in pursuit of a correct determination of taxes, fees, contributions and other amounts owed to the general consolidated budget.

Before making a decision, the fiscal body is under the obligation to ensure for the taxpayer the opportunity to express their views on relevant facts and circumstances in the decision, unless execution action or delay in making decision determines a threat to identifying the real tax situation.

Taxpayers are under the obligation to cooperate with tax authorities to determine the tax status quo by presenting all the facts known to them, according to reality, and indicating evidence known to them.

Public servants within the fiscal body, including those who no longer have this quality, are under the legal obligation to keep the confidentiality regarding the information they hold as a result of the exercise of their duties.

Final and intermediary conclusions are clearly and precisely formulated and are based on domestic and foreign literature, especially the french and english. The work is dense and valuable, based on good knowledge, up to detail, of the fiels studied.