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Fiscal Instruments to Protect the Business Environment in Times of Pandemic

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Abstract: Starting with the decree of the state of emergency, the business environment in Romania was severely affected in terms of organization and operation. Companies without cash and debts to the state budget, felt the interruption/suspension of the activity acutely, even within a legislation granting fiscal facilities, pre-existing the establishment of the state of emergency. The speed with which things evolved, viewed in the economy as a whole, normative acts regarding some fiscal-budgetary measures and the behavior of the business environment determines even today a careful analysis of the future situation of all factors involved in economic development. This article aims to draw attention, the effectiveness of those fiscal protection instruments with immediate applicability to large companies, given that the economic impact on small and medium-sized companies was felt more strongly, according to legal regulations.

Keywords: *business environment; entrepreneur; fiscal facilities; fiscal instrument; pandemic; fiscal policy.*

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1. Introduction

On March 11, 2020 the World Health Organization rated Covid-19 as a pandemic(www.who.int), and Romania, through the two decrees (The President of Romania, 2020a; 2020b), and then, through several normative acts of an economic nature of regulated a certain fiscal facilities for the entrepreneurial environment.

The pandemic that has affected much of the world it affected the good development of the economic activity in several branches of the economy, with predilection for those branches, which required the direct interaction of the activity with the population.

In support of entrepreneurs, implicitly the business environment severely affected by the restriction imposed, Romania has successively promoted several fiscal facilities for the entrepreneurial environment, so that they can really benefit from an efficient and effective recovery of the business, but at the same time, to avoid, as far as possible, entering into insolvency proceedings or judicial reorganization proceedings. In other words, we have witnessed and are witnessing a world novelty in the field of economic policy, in order to identify knowledge of the real opportunities for economic reform of society, established by the competent authorities, as well as the institutional, economic and social reform movements of the citizens of the Romanian state. All reformed mechanisms and instruments in almost areas, constitutes a new reformed society, which also materialized in terms of fiscal law for the entire business environment in Romania, thus establishing a postmodern society, with impregnating elements of knowledge with the rank of novelty in the economic-fiscal branch of business life.

The fiscal facility, as a mechanism to facilitate the payment of the fiscal liability due to the state budget, represents that obligation as defined by Bistriceanu, Negrea and Pătrăşcoiu (1977, p. 302) as being "established unilaterally by the state through normative acts, in charge of natural or legal persons, called taxpayers, to pay a certain amount of money, within the established term, in the account of the state budget".

Through this analysis, we want to draw attention postmodern fiscal instruments, innovative from the perspective of fiscal predictability and sustained effort of the state, as well as from entrepreneurs, to meet their needs in the emergency period, but especially in the alert period. Clarity and predictability of the tax legislature, as a condition of postmodernist in legal matters, makes the directives adopted with Romanian's entry to European Union, reinforce what Lyotard (1984, p. 79) observed and mentioned that "a

work cannot become modern unless it is first postmodern, for postmodernism is not modernism at its end, but in its national situation, that is, when he tries to present the impressionable and this situation is constant".

For the 20th and 21st centuries, Robertson (2010) described the European Union as one of the "big ideas" by examining the legal context of its occurrence, highlighting European law with a view to its new quality, which manifests itself spontaneously and unpredictably, but at the same times, in all its forms and aspects, it acquires an active presence, both in the economic and financial plan of each Member State, as well as on all other planes of state life.

The new circumstances created in the early spring of this year, have created new conceptions and beliefs of European fiscal policies, new deeper insights, both in the short and medium term, unprecedented al European level, which designates a characteristic feature of postmodernity from the perspective of European taxation, with an impact on national fiscal policies.

In applying this aim, the importance of the research topic in conditions beyond human control, acquires a special significance in terms of removing fiscal obstacles, for all categories of natural and legal persons, thus, the preventive and corrective measures applied for the pandemic period, to exclude the macroeconomic imbalance that could negatively affect economic stability in Romania, the euro area or the European Union as a whole.

Basically, based on the circumstances determined by the pandemic period and the meridian directions of support from the European institutions, the paper wants to emphasize the variety of fiscal instruments adopted by the Romania state, in accordance with the global economic context, analyzed under the conditions of its own interpretation related to Romania's fiscal policy.

2. Legislation of fiscal facilities for the protection of the entrepreneurial environment

Starting for the principle of fair taxation, whether we mention the general taxation *when it extends to all classes and social categories in terms of their income or wealth* (Şaguna & Radu, 2017, p. 27) or partial taxation *when some classes or social categories benefit from certain fiscal facilities* (Şaguna & Radu, 2017, p. 27), equality before tax and the fulfillment of all other fiscal obligations has been achieved.

A component of fiscal policy, fiscal instruments act in the form of a set of legislative elements, between them, of the structures and of the totality

of the fiscal acts and forms within the activity carried out by the fiscal authority. In the implementation process, the diversity of fiscal facilities (reductions, exemptions, deductions) are fiscal instruments designed to improve and protect the business environment, in particular, at a time when, as a result of the restriction of economic activities, the general consolidated budget of the state has been affected, but also the budget of small and medium entrepreneurs.

2.1. Evolution of fiscal instruments during the state of emergency

The economic and social context of natural and legal persons, newer and older entrepreneurs, by imposing restrictions imposed during the state of emergency, served as the cause of the phenomenon of job losses, as well as the imminence of the closure of several businesses, especially in the small and medium enterprise sector. Considering the opinion expressed by Copilaș (2016, p. 231) which stated that "ideology represents the vision of a certain group of people, related to congruent interests and perspectives, which presents its own philosophy of life extrapolated to political coordinates as universal or at least universalizable", we can express the idea that, all the measures included in the adopted normative acts, reflects a certain economic effort to protect citizens in order to achieve certain goals, as we will see below.

In the chronological order of the adopted instruments, Government Emergency Ordinance (GEO) no. 29/2020 (Gouvernment of Romania, 2020a) on some economic and fiscal-budgetary measures regulated for natural and legal persons the extension of the deadline for payment of local taxes until 30 June 2020, with the retention of the 10% bonus, the initial deadline being March 31, 2020. Following the fiscal facilities, for those fiscal obligations due and unpaid as of 21 March 2020, natural and legal person enjoy until 25 June 2020 the non-calculation and non-payment of interest and late payment penalties related to fiscal obligations, thanks to the promotion of GEO no. 90/2020 (Gouvernment of Romania, 2020f) for the amendment of the Government Ordinance no. 6/2019 on the establishment of fiscal facilities, as well as for the amendment of other normative acts.

Considering the significant decrease of liquidities, GEO no. 29/2020 (Gouvernment of Romania, 2020a) regulates for the whole year 2020, the possibility of legal entities taxpayers paying profit tax, facilities of the system of advance payments for this category of tax. Thus, those taxpayers who apply the system of annual declaration and payment, but with advance payments made quarterly, have the possibility throughout 2020, starting with the first quarter of this year, to a new calculation method, in the sense that,

they can pay the profit tax due for the first quarter of 2020, at the level of the amount resulting from the actual calculation of the current quarterly profit tax.

The same normative act provided in favor of taxpayers – legal entities two facilities for extending certain terms: 1. Extension of the deadline for submitting the request for restructuring of fiscal obligations until October 30, 2020 (the initial deadline was July 31, 2020); and 2. Extension of the notification period of the fiscal authority regarding the debtor's intention to restructure the budget until July 31, 2020 (the initial deadline was March 31, 2020).

For another point of view of the fiscal facilities the granted to the entrepreneurial environment regulated by Romania, we mention the bonus of 5% and 10% for the taxpayers who paid on time, the tax due on April 25, 2020, regulated by GEO no. 33/2020 (Gouvernment of Romania, 2020c) on some fiscal measures and the amendment of some normative acts. The categories of taxpayers are expressly mentioned in the normative act, so that, the beneficiaries of these bonuses are the taxpayers who pay profit tax and the companies that fall under the incidence of Law no. 170/2016 (Romanian Parliament, 2016) on the specific tax of certain activities and payers of income tax on micro-enterprises. The same facility benefits those taxpayers who have opted for a fiscal year other than the calendar year, if they pay the tax due date between April 25 – June 25, 2020.

From the category of bonuses, by Law no. 54/2020 (Romanian Parliament, 2020a) for the approval of GEO no. 33/2020 (Gouvernment of Romania, 2020c) on some fiscal measures and the amendment of some normative acts, it regulates a 10% bonus facility for taxpayers who pay due tax in due terms for the second and third quarter, therefore including 25 July 2020 and 25 October 2020.

Another normative act with relevance for granting fiscal facilities is GEO no. 69/2020 (Gouvernment of Romania, 2020f) on some fiscal measures, extension of deadlines, establishment of fiscal facilities and for the amendment of some normative acts. We find real fiscal support for all tax payers' income tax payers, in the sense of extending the deadline for submitting the Single Declaration until June 30, 2020 and granting bonuses of up to 10% of the tax and contributions related to income/earnings made in 2019. Examining further the legal previsions established by this norm, we identify an essential element of the granting of a fiscal facility in the sense of canceling the ancillary obligations for certain categories of main obligations for natural and legal persons in Romania. In this context, taxpayers (natural persons, legal persons, natural persons carrying out economic activities or

free professions, entities without legal personality, public institutions) with budgetary obligations, including fiscal obligations, outstanding on 31 March, 2020, benefit from the cancellation of interest, penalties and any accessories related to the main budgetary obligations, if they meet the following conditions:

a) pay the outstanding principal obligations at 31 March 2020;
b) fully pays the current obligations (those born after March 31, 2020);
c) submit all tax returns and the request to cancel the accessories by 15 December 2020.

In the same context, the legislator agreed to grand a facility and related ancillary obligations for certain principal obligations. These are:

(i) main budgetary obligations, additionally declared by the debtor by means of an amending declaration, maturing before 31 March 2020 inclusive;
(ii) main budgetary obligations with maturities prior to 31 March 2020 inclusive, if on that date, taxpayer has only ancillary balances and the main budgetary obligations have been extinguished;
(iii) obligations further established by the supervisory authority in the case of taxpayers carrying out an ongoing tax inspection, if they pay these obligations by the payment deadline set out in the taxation decision and if they submit the request for cancellation of the accessories within 90 days from the date of communication of the decision.

From the perspective of all categories of employers, we meet the granting of fiscal facilities until June 30, 2020, as regards the payment of amounts representing prizes/incentives paid by 30 June 2020, employees for the period of the declared state of emergency, as a result of carrying out activities that involve direct contact with citizens and exposure to the risk of infection with SARS-CoV-19, the social insurance contribution, the social health insurance contribution and the occupational insurance contribution are not due. According to the internal decisions issued by the employers, the beneficiaries of the prizes/incentives are established, as well as the rewarded activities, which for the Romanian fiscal authority will represent a justifying document for the exemption of the employer from this payment.

In the current context, we cannot omit the facility to pay the building tax, as the normative act specifies for natural and legal persons, with a deadline of 14 August 2020. In view of this, for the duration of the declared state of emergency, local councils have the possibility to adopt

decisions until 14 August 2020, on the reduction of the annual building tax by up to 50%, for non-residential buildings owned by natural or legal persons, used for own economic activity or put into use for carrying out economic activities to other natural or legal persons.

The conditions for granting the quota reduction of up to 50% shall be achieved by submitting an application by 15 September 2020, and these conditions are expressly specified, in the sense that, according to the law, they have completely stopped their activity or they prove the possession of the Certificate for Emergency Situations, which certifies the partial interruption of the activity.

As we have shown so far, we must also mention the facility offered by the normative act until 14 August 2020, with regard to the payment of the fee and rent due form the occupation of the public domain, in the sense that from 15 May 2020 and until 31 August 2020, calculation of the payment of the tax and the rent due for the occupation of the public domain billboards, it is performed only for the period of time in which the panels were actually decorated with advertising.

No less important for the budget of natural and legal persons, as well as for the removal of any outstanding fiscal obligations to the state budget, although Bădescu & Bădescu (2014) show that "The debtor is himself a metamorphosed being: all the motives and impulses of his life give way to one mobile and a devastating obsession: paying off debt. It swallows everything and works and celebrations and family and the mist of spiritualization all are transformed into offerings carried in waves of mans and peoples to the terrifying towers of over-indebtedness."(p. 265-266), we must contradict it, because we see as evidence, fiscal facilities established by GEO no. 48/2020 (Gouvernment of Romania, 2020d) on certain financial-fiscal measures, with a deadline of 25 June 2020, which regulated the following aspects:

a) suspension of measures for the enforcement of budget receivables, by summons and capitalization of goods at auction, except for forced executions for the recovery of budget receivables established by final court decisions pronounced in criminal matters, arising from the commission of offenses;
b) suspension of the conditions for maintaining the validity of the payment installments granted;
c) exemption from interest and penalties for late payment of installments in unpaid staggered charts,

this results in a refutation of what is claimed.

The specificity of the global situation caused by of the pandemic also determined Romania to adopt some fiscal measures for those companies involved in the fight against Covid-19, ruling in the direction of:

a) extension of the applicability of reverse charge (VAT) to imports intended to prevent and combat Covid-19 - measure valid for the entire period of the state of emergency and within 30 days of the end of that state of emergency;
b) extension of the applicability of the reverse charge (VAT) to imports of fully denatured ethyl alcohol used for the production of disinfectants – measure valid for the entire period of the state of emergency and within 30 days of the end of that state;
c) possibility of deducting from the income tax the sponsorships granted to public institutions and authorities including the specialized authorities of the public administration.

The social consequences of the pandemic have created inequitable inequalities for a large part of the employed population, for persons who have carried out activity with obtaining income from independent activities or from intellectual property. In the sense of those shown, by GEO no. 32/2020 (Gouvernment of Romania, 2020b) on amending and supplementing the Government Emergency Ordinance no. 30/2020 for the amendment and completion of some normative acts, as well as for the establishment of measures in the field of social protection in the context of the epidemiological situation caused by the spread of SARS-CoV-2 coronavirus and for the establishment of additional social protection measures, subsequently amended by GEO no. 53/2020 (Gouvernment of Romania, 2020e) for the amendment and completion of some normative acts regarding social protection measures determined by the spread of the SARS-CoV-2 coronavirus enforcement measures were suspended by seizing budgetary, fiscal, financial and trade receivables which have been applied to the monthly fees paid through the territorial or sectored pension funds, both for the period of the state of emergency and for a period of 60 days from the end of this state.

For the previously mentioned period, GEO no. 53/2020 (Gouvernment of Romania, 2020e) specifies in concrete terms, the facility granted, for the purpose of suspending enforcement measures by seizure for the allowances received by employees, respectively 75% of the basic salary corresponding to the job occupied, being supported from the unemployment insurance budget. This allowance could not be more than 75% of the average gross earnings provided by the Law on the state social insurance budget for 2020 no. 6/2020 (Romanian Parliament, 2020c).

2.2. The relevant fiscal legislative framework from the alert period

The applicability of the regulations in fiscal matters by the Romanian legislator until the establishment of the alert status in order to eliminate or reduce the consequences of non-payment of fiscal obligations led to the assessment as insufficient only of the fiscal measures until 15 May 2020. In this sense, Brough (2020) and Thierer (2020) states a fine observation that "Coronavirus pandemic forced decision-makers to seriously reconsider cumulative regulatory burden and how it can prevent economic recovery", which also limited Romania to distort the impregnation of the economic imbalance.

So, from another perspective of fiscal facilities, we recall the concern of the state for the revenues obtained from the transfer of the use of real estate obtained on the basis of leases/subleases or usufruct, for the purpose of reducing the tax by 80%, as mentioned in Law no. 62/2020 (Romanian Parliament, 2020b) on the application of rent payment facilities for the emergency period. The period of its application is the period for which the decrease in the value of the use of the real estate has been negotiated, but not later than 31 December 2020, being applicable to all corporate taxpayers as well as to persons owing income tax to micro-enterprises. The relevance of the facility is that it is granted to people who reduce throughout the period of 2020, the equivalent value of the use of the real estate, established in money and/or in kind, according to the contract concluded between the parties, by at least 20% compared to the value of the use of the real estate related to February 2020.

Analyzing in depth the previsions contained in the said normative act, we must highlight the context of the tax exemption for income derived from the transfer of the use of immovable property obtained on the basis of leases/subleases or usufruct, but only for natural and legal persons paying income tax, maintaining the period of application, in accordance with the above. In this case, the exemption operates at a rate of 30%, compared to the value of the use of the real estate for February 2020, which for a small and medium taxpayer, the percentage is a reasonable obvious for its survival in the economic market.

Along with the established fiscal advantages, we cannot fail to bring back into discussion GEO no. 90/2020 (Gouvernment of Romania, 2020f) for the amendment of the Government Ordinance no. 6/2019 (Gouvernment of Romania, 2019) on the establishment of fiscal facilities, as well as on the amendment of other normative acts, which, among the updates of the procedural elements already shown, regulates the possibility

of restructuring budgetary obligations and extending the deadline for submission of the notification until 30 September 2020. The express mention of the facility provides for its granting only for the main budgetary obligations as at 31 March 2020, not being limited, so that the normative act provides the possibility for the beneficiary also for:

a) the main budgetary obligations established by decision after 1 April 2020 for the fiscal periods up to the 31 March 2020;
b) the main fiscal obligations due in the period between the date of entry into force of GEO no. 29/2020 (Gouvernment of Romania, 2020a) and the date of March 31, 2020, inclusive.

3. Conclusions

According to the Convergence Program of the Romanian Government for 2020: having regard to the measures to combat the effects of the COVID-19 pandemic on both revenue and budget expenditure led to an increase in the budget deficit of 6.7% of GDP. The government has taken a number of macro-stabilization measures using fiscal policy to halt the negative effects of the pandemic and in relation to those presented in this paper, we find that, the state authorities have made sustained efforts to recover those economic branches severely affected by the pandemic, through the fiscal instruments adopted (Gouvernment of Romania, 2020g).

Through the instruments presented, it is necessary to ascertain in time, their efficiency and effectiveness in the process of avoiding the entry into insolvency or judicial reorganization of physics and legal persons, so that possible social and economic destabilizations and imbalances do not occur. To this end, the Joint Communication to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions - Communication on the EU's global response to COVID-19 JOIN (European Parliament et al., 2020) 11 final announces that the amount of EUR 12.281 billion will provide a solid basis for the global pandemic challenges. In addition to those mentioned in the Communication, I believe that, for Romania, financial support will not be able to fully meet the economic needs of entrepreneurs organized in small and medium-sized enterprises, as well as self-employed persons, as, immediately and after a period of time since the state of emergency was declared, a fiscal imbalance was created, resulting in a considerable fiscal deficit.

At the same time, I believe that "oxygen" for the survival of the business environment will not be able to positively influence investment, not

even in the long run, but the start for a short revival was achieved, through the fiscal instruments presented.

By virtue of the aspects highlighted by the context of the establishment of the decree of the state of emergency and the state of alert, the relevance of the economic and legal support of individuals and legal entities through the fiscal facilities granted are significant elements for their economic recovery. This view is based on an argument that Kant (1998) when he mentioned it: "Time and space are therefore two sources of knowledge from which various synthetic knowledge can be extracted a priori…Both, together, are pure forms of any sensible intuition and thereby make synthetic a priori judgments possible" (p. 40), represent a theory that makes it applicable even today. Observing the conclusive reality of the fiscal support provided to the people affected by the pandemic determines the obvious nuance of state support so that the determined negative effects are felt as little as possible.

We note briefly that the positive fiscal influences on individuals and legal entities had a major impact for the national economy, thus according to the „Spring 2020 Economic Forecast: deep and uneven recession, uncertain recovery", the European Commission has communicated for Romania, the forecast of the budget deficit for 2020, that it would be worth -9,2% of GDP, and for 2021, it would be around -11,4% of GDP.

In my opinion, I consider that these values are worrying for Romania, both from the perspective of the efficient administration of the general consolidated state budget, as well as from the perspective of establishing fair taxes on taxpayers/payers of taxes, duties and other budgetary obligations, given the pandemic context (with the possible regime of decreeing certain states) and the force, the power of payment and the existence/lack of cash in the economic market.

However, in view of the above, we know that taxation aims to protect public interests, as well as satisfying the functions and needs of the state (Șaguna & Radu, 2019), but the real support has led to the elimination of fiscal constraints and the implementation of fiscal relaxation, not to the extent that some voices in the economic market have hoped, but in relation to the avoidance of serious imbalances of some economic branches, viewed in the medium and long term.

The state, through the competent authorities, has responded fairly to these instruments to protect the business environment and to ensure and prelaunch the entire economic system, given that the negative influences coming from the market have been were gloomy, in order to reduce demand

and ensure flows of supply and sale of goods and services, providing for an imminent financial deadlock.

The context presented was the support of financial resources, both taxpayers and the state to insure expenses, which, by voluntarily complying with the payment of tax obligations due to the state budget, in the conditions presented in the content of this material, we can say that the preventive action for the accumulation of new debts to the general consolidated state budget had favorable results. The above considerations serve the good faith and proper functioning of the economy during the pandemic, when in order to ensure an efficient and conscious collection of fiscal obligations are necessary appropriate tools that can be achieved without the use of coercive measures by fiscal authorities, to get there to a significant reduction of the budget deficit. Accepting the opinion expressed by Condor (1996) a firm attitude is adopted in support of the indispensable levies on fiscal obligations, these being "the totality of taxes and duties from legal and natural persons that feed public budgets" (p. 147), but we cannot proclaim the levies as mandatory, given the particular context of the existing situation.

At a minimal analysis of the whole material, it can be easily identified, the Romanian legislator for balancing the fiscal system, depending on the economic reality of the country, promoting those mechanisms that prevent insolvency proceedings from being initiated, through the opportunities provided, especially, for those taxpayers who have conducted viable business.

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