Tax Havens and Offshore Centers – A Reality of the 21st Century

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Abstract
In the context of the globalization process, an important part of multinational companies have become concerned with the tax optimization of economic activities, developing international tax planning strategies, with profits being directed through offshore companies, from tax havens(from high tax to low-tax countries). The phenomenon of tax-avoidance solutions in countries of origin determines companies to move away from national economies and to create, through complex and sophisticated methods, their own offshore savings from existing tax havens, process which is in a continuous development. However, these situations create serious social problems in developing countries and generate large losses of national budgets worldwide. The main areas of interest in offshore centers are banking, financial insurance, asset protection, gambling, thus providing a real infrastructure for this. In recent years, much of foreign investment has been routed through offshore companies in tax havens with massive implications for living standards, socio-economic development, disregarding morality, ethics and social responsibility. Since 2001, this phenomenon has also emerged in Romania, when offshore foreign direct investments were made, foreign holdings in Romanian capital appeared and companies were listed on the Bucharest Stock Exchange. These indicators are made annually in the form of statistics by the National Bank of Romania and the monthly reports produced by the National Trade Register Office. Therefore, at the moment, international and national economists are constantly looking for solutions to combat tax evasion and money laundering through offshore tax havens. This article is a study on the theoretical aspects of offshore centers and tax havens, the main features of the creation, operation and main practices of offshore companies as well as the impact of tax havens on the incidence on national and developing economies. Then I will focus on the incidence of tax havens being used by Romanian subjects using the statistics provided by the National Bank of Romania and the National Trade Register Office.

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Introduction

The fiscal paradises have been generically characterized by international literature that "financial termites", which distort the foundations of global fiscal systems, and at the same time, real frameworks for remodeling the global political economy. Offshore financial centers are a poorly regulated link in the global financial system, a good place to place revenue from frauds. Offshore financial centers have a common history with the Euro Market and represent a geographic expansion of the market outside Western Europe.

In the course of their evolution, fiscal paradises have brought to the forefront the factors that have led to the emergence and rapid evolution of states regarded as fiscal paradox: high tax rates applied by some states to commercial incomes or directly applicable to individuals; multiple evasion technologies used for the purpose of editing taxes and fees; coordinating and harmonizing tax strategies that aim to attract financial capital; increasing tax pressure worldwide by most developed countries with high taxation.

1. Literature review of tax havens

Named by the specialized economic literature of the twentieth century, tax havens or offshore financial centers, these are "legal entities (corporations) with a special status in the field of taxation, being considered rarities of economic and trade relations"[3]. We know that since the antiquity, those who held the merchandise looked at the fiscal facilities that the state of that time was relieved of their attention because of the lack of experience so that the merchants of those times were constantly pursuing the practical ways of circumventing taxes abusive tax that the state imposed.

In ancient Greece, the philosophers of antiquity used the non-profit firms specific to that period in order to get money to finance the universities they coordinated by bypassing the taxes imposed by the state to conduct educational activities.

In the field of commodity trade, it is also known that merchants who were operating in the islands in the vicinity of Athens always had the objective of bypassing a 2% tax levied by Greece on exports and imports. In this way, the first territory considered to be a tax haven can be "reported in Flanders, which in the sixteenth and seventeenth centuries used a very low tax for the trade in its ports"[4]. At that time, the term "fiscal paradise" was used to characterize "the place for the

[3] C. Trandafir, Societăţile off-shore între reglementare legală şi ilicit, Editura Universul Juridic, Bucureşti 2012, p. 120

[4] D. J. Cooper, L. Varadi, G. Kiss, Paradisuri fiscal şi firme neimpozabile, Editura Nevali, Cluj, 1998, p. 112

withdrawal of ships, in the case of strong storms and winds"[5]. Tax avoidance methods were used by merchants of those times, in a more withdrawn context, even the term "offshore", a term which in free translation involves the conduct of commercial transactions off the seas or oceans, away from the tax charges levied States on shore.

Following the evasion attempts in Greece through tax havens and offshore companies throughout those periods, "England has begun to offer tax privileges to some categories of Flemish merchants, and later Flanders has returned these privileges to UK traders so the prospects of a fiscal paradise"[6]

Evolutionally addressing the aspect of tax havens, we could also point out that at the beginning of the 1889s, the most important Canadian banking institution, The Bank of New Scotland, opened one of its subsidiaries in one of the tax havens of the day, Jamaica. If we analyze the elements underlying the perfect functioning of a fiscal paradise, we can point out that several subsidiaries of some banking societies have promoted their financial network in other states where the currency was more stable, but which, through the competent institutions, exercised little control over exchanges or did not exercise this control at all.

Over time, the steadily increasing fiscal pressure in some states has prompted important wealth mongers and high-profits companies to find legal superpowers to mitigate the effects of high taxation. The emergence and evolution of tax havens was closely linked to the development of tax systems that promoted excessive fiscal taxation for economic activities and financial transactions on their tax territory. The phenomenon known as financial offshore has begun to be perceived as a "feature of contemporary capitalism after 1950, after the creation of the London Based Interbank Market"[7]. Since the 1970s, the expansion of tax havens has been "the effect of protectionist regulations and high taxes on core markets"[8]

International specialized literature defines "fiscal paradise as an instrument that makes it possible to achieve tax fraud at an international level, a territory in which individuals and firms believe that fewer taxpayers are taxed than in the state of origin"[9]. In the Dictionary of Finance and Finance, drafted by J.M. Rosenberg, the fiscal paradise is characterized as a "country in which it operates very favorable tax laws for the constitution of the registered office of natural and legal persons

[5] E.R. Nandra, Competiţia fiscal. Infernul şi paradisul fiscal, Editura Sfera Juridică, Cluj, 2008, p. 118

[6] E. R. Nandra, Impactul paradisurilor fiscale asupra economiei mondiale, apărut în Lumea Financiară - Prezent şi Perspective, 2004, p. 114

[7] G. Mulgan, R. Murray, Reconnecting Taxaion, Editura Demos, Londra, 1993, p. 34

[8] S. Gaftoniuc, Finanţe internaţionale, ed. 3, Editura Economică Bucureşti, 2000, p. 387

[9] V. Birle, Fraudă fiscal, Editura Teora, Bucureşti, 2005, p. 58

wishing to pay lower taxes, offering a wide range of tax benefits to offshore companies registered in that tax territory”[10].

2. Characteristics and classifications of tax havens

In the technical language, the term fiscal paradigm defines a tax territory where the tax system, direct and indirect, is very low or non-existent.

In order to fulfill the characteristics of a tax haven, any jurisdiction that proposes to do so will fulfill several conditions (political stability of the state, transport and telecommunication infrastructure, a certain geographic placement, the possibility to attract and generate important capital flows). In France, the Directorate General for Taxes characterized the tax haven as a country applying a derogatory tax regime, with the effect of having an excessively low level of taxation. Current legislation in force in France, the General Tax Code, revised this definition by assigning the notion of a country with a privileged tax regime.

The best known tax legislation in this area is Swiss, being qualified as offshore legislation by the fact that Switzerland practices very low rates of tax due to tax exemptions or reductions applied to residents and non-residents who inject capital into the economy of the Swiss State. It is estimated that the volume of capital operations carried out in tax havens can be valued at $ 1,600 billion annually. US analysts have concluded that "the tax havens' turnover is 50% of the world's economy, compared to 5% as it was 20 years ago”[11].

The defining characteristic of a tax haven based on an offshore banking system is that transactions are conducted in foreign currency in favor of residents and non-residents. Thus, a number of small countries have built up a substantial offshore financial network, as is the case with the states of Luxembourg, Monaco, Singapore, Liechtenstein, Cayman Islands (indeed, there are many offshore islands that are used as offshore territories by investors to afford their annual profits of excessive taxation in their own countries).

An offshore financial center is characterized by the existence of high-tech financial techniques that are progressively developing based on certain types of bank structure and products, thus offering a certain advantage compared to those at the global banking market. Offshore firms may be "financial instruments of international planning, avoidance of taxes and duties, raising profitability of a

[10] J. M Rosenberg, Dicţionar Internaţional de Administrate şi Finanţe, Editura Universal Dalsi, Bucureşti, 2000

[11] R. Buziernescu, Fiscalitate, Editura Universitaria, Craiova, 2009, p. 115

business, coordinating and monopolizing productive activities, under the possibility of anonymity, while creating a full currency of liberty."[12]

The main function of offshore centers is not the minimization of current or future tax obligations, but the creation of an independent structure which, when the parent company of a holding has problems in the state of residence, takes over all or part of their values, externalizing them. Often the term tax haven is not synonymous with the offshore financial center, these legal entities form a complex and complete network through which money flows can be generated from licit or illicit activities, the purpose being the loss of the source of origin taxation. The term offshore financial center (OFC) is used to characterize a country that allocates special incentives to attract and retain financial investments made especially by non-residents.

The Organization for Economic Cooperation and Development (OECD) also identified the main key factors that characterize a jurisdiction as a tax haven:

- tax rates of taxation 0 or only low nominal (in general or for special circumstances) used by non-residents to avoid high taxes in their country of residence;
- the protection of personal financial information in law and administrative practice in which companies and individuals may benefit from screening against financial control exercised by national tax authorities on sums earned abroad (the national tax does not receive information related to the taxation of amounts obtained by fraudsters outside the state residence);
- lack of transparency over the legislative, legal and administrative provisions of the tax haven, which also protects those who are affiliated with tax havens.

The US Treasury also produced an official report on the characteristics of an offshore:

- A secret of very high banking and commercial operations;
- Offshore State Vision to Massive Infusions of Foreign Capital;
- Existence of a very low level of taxation of the offshore state vis-à-vis the investor's state of residence (tax evaders);
- The existence of a well-developed transport and communication infrastructure that allows efficient and rapid displacement of tax evaders and the amounts they carry;
- Political and economic stability of the offshore state.

[12] C. Neacşu, Reducerea impozitelor în România prin companiile offshore, Editura Tehnică, Bucureşti, 2001, p. 11

Fiscal paradises and offshore centers are constantly strengthening due to the "high volume of capital that transits their territory, their typology differs in relation to the investors they are addressing and the facilities they offer"[13]. Starting from this idea we could classify the tax havens as follows:

a) In relation to the tax base that may be general or territorial, they may be:
- Main tax havens: on the territory of which the statutory tax provisions are applicable to all categories of investors (eg: Cayman Island, Nauru, Principality of Monaco, Bermuda, Bahamas);
- Secondary tax havens: there may be states where the level of taxation is normal or high, but there are legislative exceptions that may apply to certain investors who bring in amounts or certain commercial activities carried out on their territory (eg: Tonga Islands, Mauritian Islands, Vatican City, French Polynesia).

b) In relation to their legal nature, tax havens and offshore centers may be:
- Autonomous administrative units with limited sovereignty;
- Territories dependent on other states;
- Locations with free zones.

c) In relation to the type of investors to whom they are addressed (businesses or individuals), tax havens are:
- Tax havens, which are mainly addressed to individuals, offering in return a reduced tax rate for personal income (Principality of Monaco);
- Tax havens addressed to multinational companies and companies that offer tax incentives up to the total exemption of profits from commercial activities.

d) In relation to the main function they propose to fulfill, tax havens and offshore centers can be structured as follows:
- Tax havens and secrecy havens: In these essential states is the secret of banking and commercial operations;
- Sham havens: These countries host fictitious activities of multinational companies that have their headquarters in states with excessive taxation (fiscal inferno);
- Tax havens and offshore hubs: These countries create a tax facility addressed with dedication to companies incorporated in their territory;
- Tax havens and production havens: these countries mainly attract production activities that are materialized in foreign investment, firms investing capital by granting special facilitation, customization (eg: low fees, low taxes, tax breaks etc.).

[13] I. Dascălu, Centrele financiare offshore, paradisurile fiscal şi secretul bancar, Editura Argument, Bucuresti, 2001, p. 67

3. Tax havens in the context of globalization

An essential feature of the current world economy is the globalization process.
The advances and economic benefits of the globalization process are obvious: access to technology; the accelerated liberalization of financial and commodity markets; the vertiginous growth of e-commerce and states regarded as information economies; mobility of services and financial activities. All these are sources of economic progress, but also test points for national and international authorities because information technology and communications technology facilitates the proliferation of economic and financial crime.
That is why more and more states of the world have set their objective to combat economic and financial crime. The explanation is that the costs of economic and financial crime are immense and go as far as slowing down or destroying economic progress, causing dysfunctions in budgetary financial economic flows, undermining confidence in democratic institutions and the market economy (honest citizens who pay their taxes and they feel lied, stolen compared to those who do not, and are looking for solutions, moreover, by means of the fiscal budget cannons they give, they are able to go with the unfairly appropriated amounts abroad).
Since September 2001, in the context of the global war on crime, accusations have been multiplied for offshore tax havens and financial centers that have increasingly been linked to economic and financial crime. In short, the concept of economic and financial crime refers to a multitude of crimes usually punishable by the criminal law, which includes those facts which have the ultimate goal of circumventing the economic and financial legislation of a state's fiscal territory punishable both by national plan as well as international plan. These facts have been defined differently by the laws of different countries and describe the criminal activity that takes place in an organized manner (for this purpose there are special laws on combating organized crime - for example, the Romanian legislation in force is based on the Law 39/2003 on preventing and combating organized crime with the objective of sanctioning economic and financial crimes - against patrimony, misappropriation of funds, money laundering, etc.). Starting from this kind of economic and financial crimes, which are committed by officials or private entrepreneurs with training in this field, the term "white collar" has emerged.
The link between economic and financial crime and tax havens / offshore centers can be ensured by the wealth of facilities available to investors in tax havens (confidentiality of transactions, financial banking infrastructure that ensures the transfer of important financial funds to various accounts, various banks and various states to lose track, the phenomenon being partly known as money

laundering, the existence of a high degree of sophistication of the financial mechanisms that allow economic and financial crime - taxpayers have stock exchanges, foreign exchange markets, money through bonds, treasury bills, bringing them back to the country by anyone through the same money-laundering phenomenon).

The last 15 years have been a tumultuous and agitated period for tax havens and offshore financial centers. As a consequence of their work, numerous financial imbalances have been criticized for a long time, with a host of hostile initiatives from developed countries and international organizations. There has been growing concern over international tax evasion, money laundering and international terrorism financing, which has also exacerbated international pressure on tax havens. In this sense, a series of suggestive titles appeared in articles of the specialized press: "The ruins of the offshore phenomenon"[14], articles and reports that have debated the phenomenon and evolution of offshore paradises and centers by grouping them into 7 groups as follows:

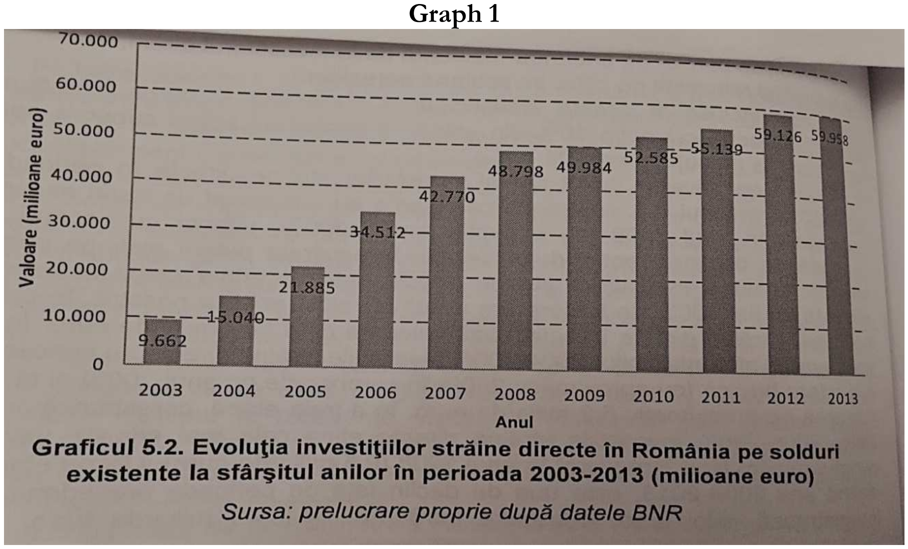
- Offshore tax havens and offshore financial centers (Channel Islands, Cayman Islands, Bermuda);
- Stagnant offshore tax havens and offshore financial centers (Vanuatu, Cook Islands, Antigua, Netherlands Antilles);
- Offshore emerging tax havens and financial centers (Belize, Samoa, Seychelles, Samoa Islands);
- Tax havens and offshore financial centers after a period of stagnation (Bahamas, Panama, Liechtenstein);
- Offshore tax havens and offshore financial centers (Nauru, Niue);
- Newly created tax havens and offshore financial centers (Brunei, Anjouan-autonomous territory, part of Comoros islands, Somalia);
- Potential states, tax havens and offshore financial centers (Maldives, Zanzibar, Tuvalu, Faroe Islands).

4. The tax havens in Romania

In Romania there are no evaluations or statistics on the use of tax havens by economic agents. Annually, the National Bank produces statistics, and the National Trade Register Office monthly reports on foreign investment and foreign ownership of domestic capital.

[14] W. Brittain "Offshore, The Dark Side of Global Economy", New York, Editura Farra Strauss and Giroux, 2005

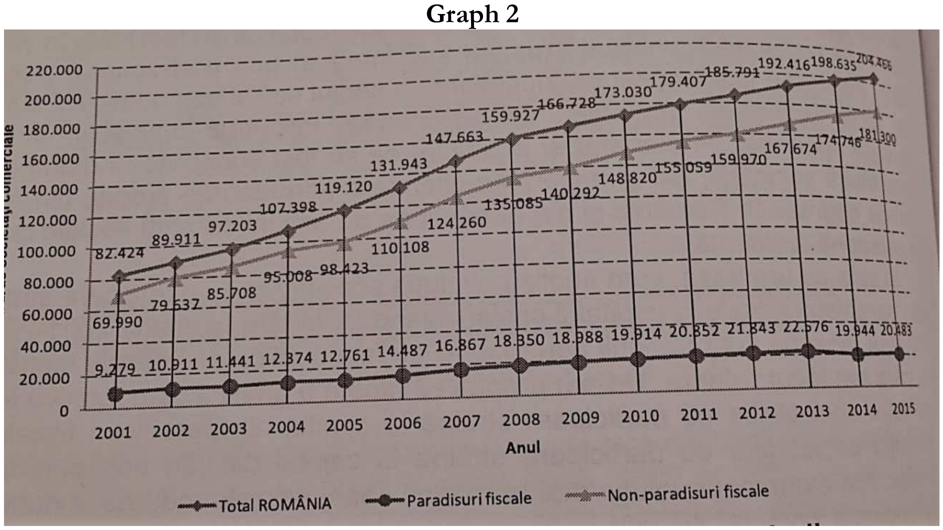
Graph 1



Source: Contabilitatea si fiscalitatea societatilor off-shore, Mihai-Bogdan Afrasinei, Editura C.H. Beck, capitolul 5, sectiunea 2, p. 148

In the period 2012-2014, Romania faced a targeting of about 2.5% of GDP in revenue tax havens, with a value of approximately EUR 2.5 billion, a phenomenon found by the Ministry of Finance. Each year, we can see an average increase of 6-7% of the number of companies with foreign capital contribution to the Romanian one.

Graph 2



Source: Contabilitatea si fiscalitatea societatilor off-shore, Mihai-Bogdan Afrasinei, Editura C.H. Beck, capitolul 5, sectiunea 5, p. 154

Analyzing chart 2, we notice that the difference between the number of companies with participation in tax havens decreases compared to the number of companies with participation from countries that do not have tax havens, the biggest difference was in 2013 and the lowest in 2015. In the period 2001-2015, investors in tax havens invested in a smaller number of companies and have a social capital of about 3-4 times higher than those in other countries with a lower capital contribution. In the period 2001-2015, investors in tax havens invested in a smaller number of companies and have a social capital of about 3-4 times higher than investors in the other countries, giving less capital contribution.
It can be seen that in the Romanian economy the existence of tax havens is significant, where multinational companies are important investors coming from countries like Germany, Austria and the Netherlands, with lower tax rates. At the Bucharest Stock Exchange, about 35-37% of the listed companies operate through tax havens where they do not mention contributions to tax havens as it happens in countries like USA, France and the UK.

Conclusions

The economy and activity of tax havens lead to a growing pressure on international public finances, while governments raise tax rates for revenue-generating purposes, fears that domestic consumption will fall, or seek to recover any other taxes lost through the activity of tax havens. The pressure on the work of tax havens is a continuing concern of highly industrialized states. There are alarming statistics associated with tax havens that show that they have played a major role in distorting the world economy and its stability.

Countries such as France, Germany, the United States and the United Kingdom have regularly tried to modify some gaps in their legislation to change some of the rules of the existence of current tax havens. The current fiscal disparities in Europe represent an alarming loss of public revenue and become a real danger for maintaining the European social model that relies on the provision of quality public services available to all. Loss of revenue leads to increased budget deficits and debt levels in member countries now when trying to fight the crisis. From the cause of tax fraud and tax evasion, available funds to boost public investment, growth, and employment have started to decline.

Another negative consequence of the existence of tax havens and offshore centers is that much of the liquidity that escapes taxation is redirected to investment through financial trading activity to the detriment of consumption and public investment. The lack of coordination in fiscal policy material within the EU leads to significant costs for citizens and firms and it can lead to non-taxation, tax fraud, avoidance of taxes. The result is a large number of firms and individuals in Europe in situations of competitive disadvantage compared to those who manage to avoid paying taxes.

The magnitude of tax fraud affects taxpayers' confidence in tax equity, the legitimacy of taxation in the tax system, and also makes honest payers derail from normal tax obligations. There are countries benefiting from assistance programs that have consolidated and refined the tax collection mechanism, eliminated the tax privileges, facing the exodus of many large companies who wanted to benefit from the privileges and tax incentives offered by the fiesta paradises.

At present, tax havens provide financial services to companies, but banking secrecy and poor tax regulation are a magnet for fraudsters, drug smugglers who can wash money through offshore corporations. Fiscal paradises are a shield for multinational corporation majors and a wealthy elite of individuals who allow them to evade taxing. They allow themselves to hold repurchase societies, encourage corruption, and contribute to the degradation of the quality of life. On behalf of the "free market", the World Trade Organization (WTO) helps tax havens that ordinary people in offshore countries pay a heavy price for tax havens policies. These facts limit and destroy the capacity of a state to increase its income through taxation (both residents' incomes and foreign-owned earnings). It undermines the ability of governments in poor countries to make vital investments in social services in infrastructure, decreases human well-being, there is no sustainable development.

The world parallel to the legal one, the offshore world is a steady haven for income from political corruption, but it leads to the proliferation of globalized crime, helps to facilitate the corruption of public funds by an elite of corrupts.

Policies to mitigate tax evasion applied by some states and territories considered havens actually contain elements that lead to tax evasion, having the effect of a chaotic capital movement. By Romania's accession to the European Union, companies present in free trade areas should be limited compared to the pre-accession period, which can be underlined by a decrease of production in free zones due to the departure of tax evaders to other tax havens.

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