The Role of the Control Inspector in the Increase of Performance of the Tax Administration

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Abstract

The importance of the activity and performance of the Tax Administration means that it is important to study them in order to understand how the Tax Administration operates. The objectives of this institution are the collection and administration of taxes, national taxes, public payments, social insurance contributions; implementation of the current tax legislation, keeping a balance between the rights and obligations of taxpayers; have the greatest possible impact on the taxpayers' community by improving how they meet their obligations; prevent tax evasion and tax fraud; and use any available instrument to make the tax payers meet their obligations and also make use of every service available to them. If after careful analysis of the financial statements the Tax Inspector considers the entities as risky, these entities should be the focus of a wide range of controls. This would avoid frequent audits at entities that do not pose a risk and saves time and administrative costs, reduces dissatisfaction caused by unreasonable controls, and assesses the accountability and the transparency of the entities.

Keywords: The Control Department, tax risk, financial reports.

The Tax Administration is in a delicate state because of permanent staff movement and rotation, what dictates the continuous need for training. It goes without saying that the employees that implement the tax laws have to be up to the level of these laws, i.e. properly prepared and capable. Qualified staff discovers more, hence the tax revenue increases. The increase of tax revenue has a direct effect on the state budget. Also, a qualified Tax Administration means lower tax evasion, because the entities will be more exposed to the critical eye of the tax inspector.
A Risk Management Directorate has been created at the General Directorate, which uses its models and programmes to identify 70% of the cases to be audited, and to allocate the hours available for each audit, depending on the risk. The Regional Directorates and the Directorate of Tax Investigations propose the rest of the entities to be audited.

1. Main areas with identified violations in 2017

1402 full operational controls were conducted in 2007 in the whole territory of the Republic of Albania. This article presents a summarised analysis of the total findings and the main area where the most violations have been identified.
The violations that occur the most are listed below:

✓ **Failure to declare the revenue by issuing incorrect receipts/invoices, which leads to reassessment of the liabilities as below:**

- Reassessment from selling under cost,
- Reassessment from selling below the market,

- Incomplete inventory / stock.
- Selling goods without issuing a receipt/invoice/tax invoice,
- Buying goods without the proper tax documentation, not declaring their sale,

(A phenomenon encountered with **665** taxpayers audited, with a total liability ALL 4,440,672,000)

✓ **Filling the Tax Declaration incorrectly** As per Article 115 of the Tax Procedures, filing an incorrect Tax Declaration carries a fine equal to 0.06% of the unpaid liability for each day until it is paid, but not for longer than 365 of the full calendar year.

(A phenomenon encountered with **449 taxpayers** audited, with a total liability ALL 1,617,361,000)

✓ **Discrepancies between bill of quantities and taxable sales, application of reimbursement rates for fuel**

• Law No. 7928 of 27th April 1995 "On the VAT", Instruction No. 17 of 13th May 2008 of the Minister of Finances; Law No. 9920 of 19th May 2008 "On the Tax Procedures in the Republic of Albania", Article 115; Instruction No 24 of 02nd September 2008 of the Minister of Finances; Law 92/2014 of 24th July 2014 "On the VAT", and Article 55 of Instruction No. 6 of 30th January 2015 of the Minister of Finances for the implementation of Law 92/2014.

(A phenomenon encountered with **42 taxpayers** audited, with a total liability ALL 14,399,000)

✓ Failure to declare the real rent price, declaration of lower than reference or contractual prices, carries a fine of 0.06% of the unpaid liability for each day until it is paid. This fine applies for a maximum of 365 calendar days. ALL 115,116,128 have been collected in fines imposed pursuant to this Article.

(A phenomenon encountered with **67 taxpayers** audited, with a total liability ALL 95,147,000)

✓ Tax Evasion - Concealing or avoiding payment of tax liabilities by not filing documents or not declaring the necessary data as required by the legislation in force, filing forged documents or false declarations or information, which lead to wrong calculation of taxes or contributions. As per Article 116 on the Law on Tax Procedures, the entity is penalised with a fine equal to 100% of the difference between the calculated estimate and what it should have been in fact.

(A phenomenon encountered with **17 taxpayers** audited, with a total liability ALL 3,971,598,000)

These are alternative estimates by the office that have increased the tax liability.

✓ **Obstructing a Tax Audit, Article 127 of the Law on Tax Procedures.**

(A phenomenon encountered with **11 taxpayers** audited, with a total liability ALL 39,753,000)

✓ Taxpayer cannot be found and alternative assessments

(A phenomenon encountered with **10 taxpayers** audited, with a total liability ALL 363,434,000)

✓ According to Articles 115, 124 and 128, failure to declare partial reimbursement for exempt sales and the reimbursement of fuel, carries a fine of 0.06% of the unpaid liability for each day until it is paid. This fine applies for a maximum of 365 calendar

days. For incorrect reimbursement of the VAT for fuel, which results in lower liability or higher amount to receive as reimbursement, the taxpayer is penalised with a fine equal to 50% of intended deduction in the tax liability.
According to data from the Tax Office, the total findings in the cases proposed by the Regional Directorates are higher than on cases proposed by the Directorate of the Risk or the Directorate of Tax Investigations, what proves once again the important role of the controlling inspector.
Apart from various qualifications of the Tax Inspector or the numerous trainings conducted by the Public Administration, the Financial Analysis with its indicators and relevant interpretations in each report helps to identify indicators of suspicious activities.

2. Indicators of suspicious activities

Communication No. 10184 of 03rd May 2013 of the General Tax Directorate was analysed for the purposes of this study. It covers the Indicators of Suspicious Activities (ISA) and aims to guide the inspectors when they conduct controls. If the controlling inspectors identify suspicious cases when analysing the ISA during controls, they will document them by describing and reporting the relevant indicators to the Directorate of Risk at the General Tax Directorate.
So in the course of cooperation with the Directorate of Tax Investigations, the Tax Inspector who is conducting a control at a taxpayer and discovers a fraudulent element, will inform his superiors for further decision-making. The referral is based on Regulation No. 15043 of 01st August 2011 “On the cooperation between different sections of the Tax Administration and On the referral of potential cases with elements of criminal offences related to taxes”, preparing the Form RHT #1.
The form “ISA” never excludes the sending of information to the Directorate of Tax Investigations, it will be prepared whenever there are Suspicious Cases of Money Laundering, based on recommendations and examples.
The form “ISA” will be sent together with the form RHT#1 to the Directorate of Tax Investigations, accompanied in each case by a detailed report describing the nature of the financial indicators of suspicious activities.
Indicators obtained from the Financial Analysis serve as Indicators of Suspicious Activities:

1. Liquidity ratio (Current ratio) Current assets / Current liabilities

If this ratio is higher than 0.42 for more than one period, this is a risk indicator and analysis is needed to find out why this difference exists and whether the company has suspicious financing.

2. Liquidity ratio (the “acid-test ratio”): (Current assets – Inventories) / Current liabilities

The liquidity ratio above indicates that the amounts in tangible money and in accounts and in receivables accounts amount to 89% of current liabilities or close to the coefficient of the industry 0.9 (90%). The inspector should conduct careful analysis if this coefficient is obviously lower for longer than one period, as the company might be engaged in suspicious financing.

3. Leverage ratio (Debt ratio) Total liabilities / Total assets

The debt ratio is considered optimal when it is lower than 0.5 (or lower than 50%).

If this ratio is higher than 0.5 for more than one period, this is a risk indicator that the company might have received suspicious financing for this debt.

In these cases the inspector must analyse the sources of this debt and report anything suspicious.

4. Leverage ratio Total debt / Total own capital

The ratio is considered optimal when it is lower than 0.9 (or lower than 90%). If it goes over 0.9 (or 90%), this is an indicator that the company might have received suspicious financing for this debt. In these cases the inspector must analyse the sources of this debt and report anything suspicious.

5. Financial leverage ratio, Interest coverage ratio, Profit before interests and taxes / interests expenses.

If this ratio is lower than 1 for more than one period, this is an indicator that the company is heading for bankruptcy. The ratio is considered optimal when the report tends to reach 7. Care must also be shown when this ratio is obviously higher than 7 - declaring very high earnings which are not normal in the activity.

6. Return On Investment After Tax Profit / Total Active Assets

Measures the general efficacy of the management on the profits realised from available assets. This indicator is optimal when it is lower than the average of the industry for several periods.

7. Return on Equity Profit after tax / Own capital

This ratio measures the company's return on the share capital. It is directly affected by the debt taken by the company to cover its financial needs. This indicator is not optimal if during several periods it is lower than the average norm of the industry and lower than bank interest rates.

8. Net marginal profit ratio: Profit before tax / total sales

The inspector must analyse the source of the revenue if this ratio is several times higher than the average of the industry.

Pursuant to Paragraph 8.1.1 of the Manual of Tax Investigation, Directorates of Tax Investigations at the Regional Tax Directorates have the obligation to refer to the Directorate of Tax Investigations at the General Tax Directorate the Reports of Inspections on companies with the relevant findings, as per the following criteria:

➢ When the tax liability originates from violations classified as "tax evasion", based on Article 116 of Law 9920/2008 "On the Tax Procedures in the Republic of Albania", as amended.

➢ When facts and arguments lead to suspicions that the activity of the taxpayer has elements of the actions or efforts of hiding of liabilities and manipulation or distortion of transactions, documents or data.

➢ The total value of the notification - assessment is:

A) A combined total of additional liabilities and penalties of no less than ALL 8 million after inspections from the Regional Tax Directorates, Large Taxpayers Directorates (VIPs), Regional Tax Directorate of Tirana and Regional Tax Directorate of Durrës.

B) A combined total of additional liabilities and penalties of no less than ALL 4 million after inspections from Regional Tax Directorates of Korça, Elbasan, Fier, Gjirokastra,

Vlora, Berat and Shkodra.
C) A combined total of additional liabilities and penalties of no less than ALL 3 million after inspections from Regional Tax Directorates of Lezha, Dibra, Saranda and Kukës. Also, pursuant to Paragraph 8.5.1 of the Manual of the Activity of Tax Investigation, the tax Inspector should refer to the Directorate of Tax Investigations any suspicions or findings of tax evasion notwithstanding their value.

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