



Research Article

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The current situation of the tax system and administration in Albania

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Abstract

A large part of the world's economies, but especially countries in transition, face high levels of fiscal evasion and tax avoidance. The tax administration must analyze the factors that influence the level of income declaration by taxpayers, specifically the identification of the problems of this fiscal policy in relation to VAT, Social Security and Health contributions and consolidate the infrastructure in order to improve the situation in a way to achieve a better performance in the realization of tax revenues. Tax control remains one of the most discussed issues in this case. Despite the fact that there are other important structures that affect the performance of the tax administration, tax audit has a significant impact on increasing the awareness of taxpayers. The quality of tax control has been treated as one of the basic performance indicators of the tax administration that has a direct impact on tax revenue collection. Fiscal evasion and tax evasion leads to a low level of revenue realization, which causes low levels of public investment. The object of the study will be the identification of the current problems of the fiscal policy, the identification of influencing factors in the behavior of taxpayers and the impact of tax control on tax performance. There are studies related to the structuring and management of the tax audit and the factors that make a tax audit more qualitative. These studies emphasize that an independent tax control takes on new burdens aiming to guarantee the budgets with the necessary revenues to carry out economic and social programs for the benefit of citizens. The recent global and regional economic crisis has affected fiscal administration, requiring all governments to increase tax performance in support of the minimization of informality and the fight against fiscal evasion and tax avoidance.

In a country like Albania, where the informal economy is present (World Bank, 2015), taxpayers try to use all the "ways" they find to avoid paying tax obligations. The difference between the taxes that should be collected and those actually collected¹ is calculated to be somewhere between 16% and 20% for VAT and for profit tax an average of 38%, also if measures for tax controls had not been taken, the potential evasion reaches 66% (World Bank, 2015). Also, the occasional changes in tax legislation and the tax burden creates difficulties for business until finding abusive ways. Under these conditions, for the tax administration in Albania, maintaining an efficient and effective tax administration is a difficult challenge.

In all countries, the tax audit plays an important role in the performance of the tax

¹ Tax Gap.

administration. The main purpose of the tax administration is to make taxpayers aware of their tax obligations. An important tool for improving efficiency and effectiveness of an administration is the implementation of an appropriate tax control system in relation to the conditions in which the country is located.

This study constitutes a scientific effort to present the problems of the current fiscal policy and the influencing factors in the performance of the tax administration in Albania. Through this study it will be possible to prove the relationship that exists between the various factors that have been studied (which are thought to affect efficiency) and the efficiency of the tax administration. At the same time it will be analyzed what part of the income is realized from the tax control from the total collected income.

This study is a novelty in this field, since there are no studies in Albania that have dealt with these issues before, but it will also serve the senior managers of the tax administration and policy makers to take the appropriate measures.

Keywords: Tax system, current situation, administration, Albania.

1. Introduction

The tax system began in 1991 with the drafting of tax legislation, the approval of its implementation in 1992 and the end with the approval of the fiscal package in March 1993. Characteristic for the first years of this period was the lack of tax policies and the tax system, deficiencies that had to be overcome with the aim of expanding the private sector and promoting tax reform.

Tax legislation in the Republic of Albania consists of international agreements, ratified by the Assembly, tax laws and by-laws, approved in support of tax laws. In the administration of the tax system, the tax administration is guided by principles which come in the function of the same and effective implementation of the legislation by the tax administration and the promotion of voluntary compliance with the tax legislation, through information, education and publication of by-laws.²

Based on the legal provisions in force, we will discuss below what is the meaning of duties and taxes and against which services, benefits or income are set.

Tax is a mandatory and non-refundable payment in the state budget or in the budget of local government bodies, established by law and not made in exchange for certain goods and services, i.e. a payment made on the basis of income or of the property in order to create the necessary means for financing public expenses.

Tax is a mandatory and non-refundable payment in the state budget or in the budget of local government bodies, established by law and paid by every person who exercises a public right or benefits from a public service in the territory of the Republic of Albania.

Taxes constitute the main source of income in the state budget (Bungo, 2009) or in the budget of local government bodies and are at the core of the entire Albanian tax system. In most cases, the terms "tax" is used with the same meaning, however, taxes are paid more on the basis of income or profits that are realized and goods that are consumed, while taxes are paid for the various services that state authorities provide

² Law No. 9920 dated 19.05.2008, On Tax Procedures in the Republic of Albania, Article 3 and 12.

to their citizens. The tax system in the Republic of Albania consists of a package of laws, regulations, instructions as well as tax agreements regarding the procedures of setting these taxes, their level, change and removal of taxes, the procedures of assessment and collection of tax liabilities.

Taxes represent a compensation for special public services performed by the state in favor of various persons. These services are related to one or several direct benefits of citizens. The main features of taxes are:

- Taxes are mainly a source of monetary income of local state bodies, municipalities, etc.;
- The public services for which the tax is paid also have the element of voluntariness present, which is not encountered in any case with taxes;
- From a financial point of view, the role and importance of taxes for meeting expenses for services is sensitive in the local budget and less sensitive in the national one.

Analyzing the doctrine (Basu, 2007), legal provisions and the effects of sanctioning taxes by law, it can be summarized that:

a. Taxes are derivative revenues of the state;

Taxes are derived based on the exercise of state sovereignty, i.e. they derive from the binding force of the public operator. In fact, it is income that comes to the state through its coercive force and not from its economic activity.

b. Taxes are compulsory revenues of the state;

According to the law "On Tax Procedures in the Republic of Albania", taxes are mandatory and non-refundable revenues in the state budget or in the budget of local government bodies, established by law and not made in exchange for certain goods and services.

c. Taxes are collected in the public interest and serve to finance the needs of society;

By paying taxes, the taxpayers do not have a direct benefit, but indirectly the whole society benefits from the public services that the state realizes through the income realized from the taxes that are quite decisive for its budget.

d. Taxes do not have direct compensation;

Public revenues are not known where they will be destined, in contrast to taxes, e.g. it is known that the student tax for higher education is known to go to the provision of this service by the university that provides this service.

e) Taxes are usually paid in cash, according to economic power;

In modern and industrialized countries taxes and duties constitute the most essential income for a state's budget. They are mainly paid in cash expressed mainly in percentages and payable in the national currency.

f) Taxes are paid according to the territorial principle;³

We say that taxes are paid on the basis of the territorial principle, because where an income or asset is realized, the tax must be paid there, so we are dealing with what is called the "principle of residence".

³Law No. 9920 dated 19.05.2008, On Tax Procedures in the Republic of Albania.

1. Principles of Taxation

Jain, Khanna, Grover and Jain (2007) point out that different economists have put forward different principles regarding the construction of a consolidated tax system. The father of modern economics, Adam Smith, introduced the four principles of a healthy tax system.

(1) The principle of equality: the subjects of each state must contribute to the support of the government as much as possible, in proportion to their respective abilities, which means in proportion to the income they receive in the state where they are located.

According to the above principle, subjects pay taxes depending on their income, this does not mean that all people should pay taxes in an equal amount. For the rich, the marginal utility of money is lower than for the poor. The rich have to pay more taxes than the poor. Equality means equality in the sacrifice that everyone makes.

(2) The principle of certainty: the tax that every subject must pay must be certain, and not arbitrary. Time of payment, method of payment, amount to pay should be clear and simple for every person.

(3) Principle of appropriateness: Every tax should be imposed at the time and in the manner in which it is convenient for the contributor. Every tax must be collected at the time and in the manner in which there is no difficulty for the taxpayer to pay it. If a tax is collected at a time and in a manner that is inconvenient to the taxpayer, even a minimal amount of the tax will be a burden to the taxpayer. If a tax is collected at a time and in a manner that is convenient for the taxpayer, the taxpayer will not evade the tax in a significant amount.

(4) The principle of economization: the costs of tax collection should be minimized. The tax system should not be too expensive. Any tax should be levied in such a way that the government does not have to spend too much on collection and the taxpayer does not have to spend too much on paying it. The principle of economization can be viewed from several perspectives: a high tax on income does not satisfy the principle of economization, but a high tax on narcotics and alcoholic beverages can be justified. There should be a minimum expenditure in tax collection and there should not be an adverse impact on production and people's desire to save and invest.

Although Adam Smith described the four principles for building a tax system more than 200 years ago, economic activities have undergone significant changes since then. Some of the additional principles mentioned by other economists are:

(1) The principle of elasticity: the tax system must be constructed in such a way that, in case of need, the government can decrease or increase tax revenues.

(2) The principle of production: taxes should be few in number but produce high revenue and taxpayers should not suffer too much. Taxes should not have a negative impact on trade and industry and on the capacity and willingness of people to work, save and invest, and there should be the possibility of generating high incomes in the future.

(3) The principle of variety: there should be a multiple tax system instead of a single tax system. Taxes must be of different types so that every citizen of the country bears the tax burden to a certain extent and a balance must be established between

direct and indirect taxes.

- (4) The principle of simplicity: the tax system should be simple in order to be understood and thus there are fewer opportunities for tax evasion.
- (5) The principle of desirability: taxes that are imposed for the first time must be accompanied by a justification. Taxes should no longer be imposed for a wrong reason.
- (6) Principle of flexibility: a tax should be able to change easily.
- (7) The principle of popularity: taxes should be popular so that tax officials will not face opposition from taxpayers while collecting taxes.
- (8) Bouyancy principle: the tax system should be constructed in such a way that the revenue collected from taxes increases simultaneously with the increase in national income.
- (9) The principle of coordination: central or local governments impose different taxes. The same tax should not be imposed by the central and local government as it would create problems for the taxpayer.

1.1. Tax Justice

There are several views regarding the fairness of tax systems. However, debates in this field are characterized by subjective elements.

1.1.1. Horizontal justice

According to Rrumbullaku (2015), horizontal justice, in a tax system, refers to the situation when the same taxpayers are treated in the same way. The above definition implies two issues: in what aspect is the equality of taxpayers seen and how are two taxpayers treated in the same situation.

However, often the metrics (income, expenses and solvency) reflect the results of people's decisions and are not really indicative of their real position. Consider two taxpayers who each make £15 an hour. Mr. D chooses to work 2,000 hours while Mr. L chooses to work 2,500 hours each year. D's income is £30,000 and L's is £37,500, so they are not in equal positions. On the other hand, D and L are equal because their earning capacities are the same (Rosen, 2003).

Feldstein (1976) suggested utility as another alternative measure of equal position through income. Horizontal utility means that: if two individuals experience the same degree of utility when not taxed they must be equally well off if taxed and if one is worse off than the other before the tax, he must be worse off after the tax.

1.1.2. Vertical justice

According to AICPA (2007), vertical fairness means that the tax burden should be based on the ability of taxpayers to pay. In this case, three main problems appear:

- determining the categories of taxpayers who will pay a higher rate based on a predetermined criterion;
- application of the criterion;
- determining the measure of how much the person should pay more when he is in the category of people who have to pay more (Rrumbullaku, 2015).

Three criteria have been proposed to judge whether a person should pay more tax. Usually, countries with uncomplicated tax systems tend to tax mainly contributory

ability, while countries with complex tax systems include more indicators in setting tax obligations. The proposed evaluation criteria are:

- determining the highest level of well-being;
- determining a level of greater contributing ability;
- determining whether it provides a large benefit from the government (Rrumbullaku, 2015).

In Albania, the Ministry of Finance drafts the tax policy taking into consideration the proposals of experts and then the parliament or the council of ministers approves them. The General Directorate of Taxes, together with the Regional Tax Directorates, deals with the administration, i.e. with the tax collection process.

1.2. Tax administration in Albania

The function of the Tax Administration is to administer taxes and national taxes according to the tax legislation in force in the Republic of Albania.⁴

The Tax Administration's mission is to encourage and achieve the highest level of voluntary implementation and compliance with tax obligations and to ensure a high degree of public confidence in the integrity and efficiency of the tax administration.

The Tax Administration's task is to ensure the correct implementation of tax legislation, to determine and ensure the reasonable understanding and implementation of the provisions of these laws, in accordance with the law "On Tax Procedures in the Republic of Albania", and specific tax laws and relevant by-law provisions, treating all taxpayers equally and impartially.

The implementation of the legislation has two main components, the awareness and education of taxpayers and of the population for the voluntary fulfillment of tax obligations, and efficient tax control. Voluntary compliance with tax obligations and efficient implementation of tax legislation requires establishing the right balance of tax administration resources between education and service to taxpayers on the one hand, and efficient control and effective enforcement measures on the other (Tax Control Manual, 2011).

According to the strategic plan, 2014-2017, the tax administration intends to continue to fight the bias in the use of coercive measures to eliminate problems and any surprises in its cooperation with taxpayers, taking into account:

- strategic management to achieve its organizational mission, while managing the relationship with the environment where it operates;
- decisions and actions that focus on the design and implementation of planned strategies to achieve the established objectives;
- the process of analyzing the current environment and identifying future problems;
- updating the tax administration with environmental changes.

1.2.1. The vision of the tax administration

The tax administration tends to be cooperative with the business community and citizens through the effective and efficient administration of a fair and impartial tax

⁴ Source: General Directorate of Taxes obtained from: www.tatime.gov.al.

policy, in order for taxpayers to fulfill the requirements and obligations contained in the tax legislation (Strategic Plan of Albanian TA, 2014-2017).

1.2.2. The mission of the tax administration

The mission of the tax administration, according to the TA strategic plan, 2014-2017, is:

- effective and efficient implementation of tax legislation;
- equal treatment of taxpayers in the fulfillment of tax obligations;
- providing quality services to taxpayers;
- the occasional increase in the professional skills of tax inspectors and the creation of a professional and motivated tax administration;
- facilitating taxpayers in fulfilling their tax obligations.

1.2.3. Values of tax administration

According to the TA strategic plan, 2014-2017, the values of the tax administration are:

- integrity to perform duties truthfully, honestly and transparently;
- accountability for actions and results;
- transparency to be sensitive, fast, fair and objective in relations with taxpayers and other interested parties, strengthening the trust between the two parties;
- professionalism to increase efforts in the direction of improving performance and competence with a focus on achieving better results;
- creativity to promote new ideas, methods, processes and practices;

1.2.4. Objectives of tax administration

The objectives of the tax administration are:

- Collection of anticipated revenue through:
 1. effective and efficient implementation of tax legislation;
 2. realization and implementation of an "E-Taxation" program;
 3. publication of tax legislation, rules and procedures in its implementation;
 4. self-assessment and self-declaration of tax obligations, following changes in the business environment, adaptation of resource organization systems, information technology and work processes to achieve effectiveness and efficiency;
 5. continuous growth of professional skills in revenue collection and reduction of tax evasion.
- Identifying and reducing the possibilities of non-fulfillment of tax administration objectives;
- Ensuring quality services for taxpayers;
- Impartial use of measures to meet the requirements of tax legislation (Strategic Plan of TA, 2014-2017).

2. Conclusion

In the conditions of globalization and transferability of production factors, direct taxes constitute a tax area where countries develop competition among themselves to be more attractive to foreign investors. The harmonization of the Albanian tax legislation with that of the European Union is in a continuous process.

In the road Albania's toward EU membership, it is also determined that tax legislation does not necessarily provide for a clearly defined scheme of action, structure, tools, objectives and policies. This creates often problems in legal interpretation, identifying the circumstances that justify or require the application of the respective legal provisions. In other words, this approach should encourage the drafting by the legislator of clear and coherent norms in defining different forms of abusive behavior in the tax field.

In this context, it is proposed that the legislator should take measures in order to clarify the application of tax legislation and to reduce the opportunities that encourage tax avoidance (Orow, 2000), such as to create a more coherent and consistent structure that better expresses the principles of the tax system. The development of this structure should not be motivated only by opposition to tax avoidance, but rather by a desire to create certainty and consistency in commercial transactions and their results. Drafting more specific anti-avoidance rules in order to clarify and explain the legislator's intent regarding specific sets of normative provisions can be a more effective instrument in combating and addressing forms of avoidance.

As far as the Albanian case is concerned, as mentioned, efforts are still needed to develop a consolidated doctrine and jurisprudence, which will have a simpler path in case of a general written community principle. Until 2019, in the Albanian legal reality, the only way to ascertain tax avoidance is article 71/dh of the law "On tax procedures", which provides for the right of the tax administration to carry out the reassessment of the transaction or related transactions "without substance essential economy". In 2019, the first general anti-avoidance norm was introduced, amending Article 71 of Law no. 9920/2008 "On tax procedures".

The implementation of indirect audit methods in Albania should be managed carefully. This approach is well accepted in international good practices, but for taxpayers and Albanian courts it will be a new experience. Auditors should be well trained in the application of indirect audit methods and given detailed procedural instructions. The first cases must undergo strict quality assurance reviews before the final assessment is issued.

Compared to international standards, the institutional capacity of the Tax Administration is relatively weak. Undertaking a reform program while maintaining normal business operations is a significant challenge for any revenue administration. Continuous changes in management have resulted in the loss of reform momentum, as newcomers need time to understand the challenges of administration and gain the trust of the staff. Real momentum for reform can only be sustained by leaders who are given enough time to mobilize their leadership team, to build capacity, to engage staff, to embed a new work culture oriented towards performance indicators.

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