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The Taxation Competitiveness within the European Union

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Abstract: *This paper examines the "tax competition" concept, introduced for the first time by Charles Tiebout, in 1956 and attempts to draw out its implications for the debate on corporate tax coordination within the EU. The approach of the taxation competitiveness needs first of all defining some notions such as: taxation, taxation system, taxation policy – notions in tightly link with our topic. It illustrates why taxation represents an essential component of the socio-economical life of a nation. Taxation policy is characterized by the manners in which the state acts upon the economic-social life, both for satisfying the necessary amount of funds for financing its activities, and also for regulating the imbalances of the market.*
Keywords: *taxation, taxation competitiveness, taxation code, taxation policy.*

Introduction

There is a large list of definitions in the literature in the field for the notion of taxation, each of them referring to one side or another o the taxation. We consider that the definition given by the Larousse Dictionary is exhaustive: "taxation represents of system of collecting of taxes, a set of laws referring to this and the means to apply it."

In any country taxation works as a system – the taxation system [1], comprising three components:

- The legal component – norms and other technical elements (taxation code, the taxation proceedings code, the state budget law, public financial law, etc);
- The procedural component (the taxation mechanism), stipulating the administration procedure of the taxation budget incomes, according to the taxation procedural code and annual budgetary laws;
- The institutional component (the taxation device) represented by the set of state institutions in the field, directly implied in the regulation and application of the budget taxation incomes, at a central level and at the local level as well (Public Finances Minister through the National Agency for Fiscal Administration – NAFA).

1. The Concept of Fiscal Competition

Aiming at its goal, taxation represents an essential component of the socio-economical life of a nation, and the manner in which it is achieved depends on the fiscal policy of the concerned state. In other words the taxation policy is characterized by the manners in which the state acts upon the economic-social life, both for satisfying the necessary amount of funds for financing its activities, and also for regulating the imbalances of the market.

The increase of the economic efficiency constitutes, in any market economy, the determining factor for diminishing the differences between the social needs (growing constantly) and the society resources (more and more limited).

The differentiation between the fiscal policies from one country to another determines the manifestation of a fiscal competition at the international level, or, in other words, "a strategic fiscal context, within the broad framework of non-cooperation between the fiscal jurisdictions (countries or regions belonging to a federation), where, each part establishes the parameters of the fiscal system according to the taxes applied by the others" [2].

In other words, the taxation competition in EU represents a state of situational facts, in which the EU desires more discipline and cooperation, and the member states, more benefits, giving up as little as possible of their sovereign rights in the field of taxation. However, this strategic fiscal context is coordinated by the EU institutions and every fiscal jurisdiction, sets some of the fiscal parameters according to the levels of taxation applied by the other fiscal jurisdictions.

With all the efforts carried out in order to harmonize the economic and political systems, the economic globalization and the intensifying of capitals mobility also created the conditions for the fiscal competition between the EU member states. At the same time, the processes of European economic integration determined the externalization within the interior of the Union, of some problems specific for each member state, included the fiscal ones, the impact of which can create effects upon other member states, by producing distortions at the level of the Single Market.

Currently, at the level of the European Union, there is not a European fiscal system totally integrated, a fact that cases problems for the way in which the fiscal political decision is transposed at the level of each state.

The fiscal unification has no unanimous political support as long as the EU is not a federation of states and where the economic policies are not fully unified.

The fiscal unification supposes, first of all, giving up competences, from the part of the member states, in favour of the Union, thus:

1. **an exclusive competence** for customs taxation, there where the member states have no right to impose taxes on the intra-communitarian trade and the international one also, the Union having only the competence to adopt legislation or to conclude international agreements;
2. **a shared competence** between the Union and the member states, as it is in the field of VAT and harmonized excises, such as:
    - in the case of VAT, the communitarian legislation does not allow to the member states to maintain or to set up other taxes upon the turnover, but allows each member state to establish the level of imposing margins which should be framed within an interval situated between 15% and 25% and at most two margins reduced up to 5%;
    - in the case of harmonized excises, their size should be settle in respect of a level listed in the communitarian directives in the field.

Fiscal competition can be manifested in two ways: [3]

- **explicitly**, when the governments establish special fiscal regulations conceived for the growth of the attractiveness of the fiscal jurisdiction for enterprises, residences, labour force or consumers;
- **implicitly, when governments modify** some objective of fiscal policy in order to temper the effects of competition, from the part of other states.

The fiscal competition can be classified following several criteria:

1. *according to the goals* set up by the authorities:
    - direct or by portfolio foreign investment facilities;
    - domestic products promotion facilities, caring up excises, when there are significant differences between them;
    - high calibre labour force facilities, with a high level of mobility;
2. *according to the hierarchic reports* in which the public authorities are situated:
    - horizontally fiscal competition, when the authorities are situated on the same administrative level (governs, local authorities);
    - vertical fiscal competition, when public authorities situated on different administrative levels, apply taxes on the same taxing material.
3. *according to the fiscal instruments used* by the fiscal authorities we mention:
    - competition by means of margins imposed, as a rule, lower compared to the margins applied in other fiscal jurisdictions;
    - competition by means of imposing bases, when awarding different facilities in settling the material to be submitted to taxation (deductions, depreciation allowances etc)
    - competition by means of public expenses announced by the authorities in order to increase productivity of the enterprises (i.e. modern infrastructure).

2. The European Union Fiscal Objectives

The European policy in the field of taxation has two components:

- Direct taxation, with the responsibility of the member states;
- Indirect taxation, with a double responsibility (EU + member states), because it affects the free movement of goods and services.

The member states should follow and apply measures to prevent tax evasion and double taxation, and the European policy has a goal to assume the fact that on the Single market the competition is not hampered by the differences between the systems and the rates of indirect taxation. As well as, there have been taken measures to prevent the negative effects of the competition in the field of taxation that may occur in the case of transfers of funds between the EU member states.

By means of "Stability and Growth Agreement" (2008) and then by means of "Fiscal Agreement" (2013) it has been implemented a new dimension of the general fiscal policy, by restraining the governments' capacity to subsidize public expenditures through budget credits.

The member states belonging to Euro Zone are not allowed to register budgetary losses beyond 3% of GDP, aiming in future at balancing these budgets along the accounting period. Any public expenditure exceeding the provisioned ones, in order to be financed, it should be covered in terms of budget incomes, and not to be produced as loss.

Even though they have accepted these objectives, the national governments have been marginal in adopting major initiatives, aiming at taxation harmonization within the framework of the European Union or at eliminating the provision of the "Fiscal Agreement", according to which the fiscal measures should be decided only by the EU Ministers Council.

The strategy "Europe 2020" – "For and Intelligent, Sustainable Growth favourable to inclusion", states a better coordination o the fiscal policy from the part of The EU, taking into consideration several objectives, such as:

1. In the field of direct taxation:

a) The taxation of the trade companies:

- a common, consolidate fiscal base for companies (harmonizing taxation on the account of turnover);
- common fiscal regime applied to all companies, mother or subsidiary, or branches, functioning in the EU;
- revising taxes applied to trans-border transactions;
- common tax system: payments on interests and levy between associate companies;
- the elimination of the double imposing.

b) Physical person's taxation:

- revising taxation applied for incomes from savings;
- the battle against the fiscal obstacles for the transferable services of retirement allowances.

2. In the field of indirect taxation:

a) The common system of VAT (VAT directive):

- VAT: the special regime applied to gold;
- VAT: special regimes applied to goods second –hand, art objects, antiques and collection objects;
- VAT: the services that intensely use the labour force;
- VAT and the e-commerce
- VAT exemptions: the final import of goods and the temporary goods import;
- VAT reimbursement: taxation persons established in other state member of the EU.

b) General proceedings regarding the possession and the movement of goods submitted to excises:

- excises applied to processed tobacco (harmonization of excises in several stages, then, approaching taxes);
- approaching excises for cigarettes;

- alcohol and spirits (harmonizing the structure of the excises and then approaching the excises rates);
- the common frame of taxing the energetic and electricity goods;
- fiscal marking of diesel fuel and kerosene.

3. Tax relieves:

- tax relieves applied to travellers:
- for international people traffic;
- for small lots of goods having a non-commercial character coming third countries;
- the definitive introduction of personal goods of the physical persons;
- the permanent import or temporary of personal auto-vehicles etc.

4) European institutions involved in the struggle against the fiscal fraud, in collaboration with the national institutions:

- the European Anti-Fraud Office (EAFO);
- the European Police Office (EROPOL);
- the European Police College;
- the European Agency for the Operative Administration of the External Borders of the EU member states.

The action plan of the European Commission aiming at strengthening the fight against fraud and tax evasion, provides the creation of a mechanism for a rapid reaction in the field, that is: [5]

a) the creation of the "NIF for Europe portal", aiming at improving the administrative cooperation in the field of direct taxation and of exchange of information at the European level (national NIF are the fiscal identification numbers of the contributors, placed at the fiscal administrations);
b) the creation of the European contributor Code;
c) the creation of the European Public Prosecutor etc.

3. Problems Regarding the Fiscal Harmonization at the Level of the Member States, within the Context of the European Policy Integration

Under the circumstances of the unification of the commercial policy within the framework of the Single market, of the smooth transition to the euro currency, but also of the limitations imposed by the use of the leverage budget through the "Agreement of Stability and Growth" and then through "The Fiscal Agreement" – taxation remains the only major instrument of economic policy under a large control of the member states., useful for promoting specific objectives and to face some asymmetric chocks.

That is why, the fiscal harmonization inside the EU still remains a desideratum, as the decisions in the field ere taken unanimous at the level of the Council, and the member states still do not have convergent views regarding the limits of this approach.

Even in the cases in which there succeeded the adoption on some normative acts in the field of taxation, these have taken the form of directives, containing only obligations, of result and not means, and there should be transposed into national legislation, unlike the regulations which apply directly to all member states.

As well, through the Treaty of Amsterdam (2008) it was provided "The Flexibility Pause" - an institutional - decisional innovation, enable the member states to agree extra rules to those existing in spite of the acquis and applicable only in certain circumstances:

- qualified majority vote in the Council;
- non-affected the communitarian acquis;
- the existence of a minimal number of states adopting such an initiative.

3.1. The Risk of Erosion of the Imposing Bases

The integration of the national economies can have a negative effect upon the taxation systems, mainly, in two directions:

a) An enlarged mobility of the taxation bases, as a result of the liberalization of the economic flows, that is:
   - the liberalization of the circulation of the capitals;
   - the disappearance of the customs barriers;
   - the introduction of the single currency etc.

It is to be mentioned that the mobility is not identical for all taxation bases. For example: the movement of the labour force is more limited, because of multiple causes (linguistic, familial, socio-cultural circumstances). Only the high calibre labour force is more mobile.

The movement of the economic activity from one member state to another, exclusively because of norms of some differences of fiscal treatment, affects the imposing bases upon which the national authorities acts for obtaining budget incomes.

The literature in the field distinguishes between the neutrality of capital export that of capital import.

The neutrality of the capital export is assured in the case in which the effective imposing rate upon the investment of the company does not affect the placement of the respective investment.

The neutrality of the capital export is produced when the investors get the same post-taxation benefit for their business irrespective the country in which they have invested.

b) A complication of the efforts to determine and collect taxes on contributors and/or the transactions situated outside the jurisdiction of the national fiscal authorities.

From this reason the states adopted fiscal measures to protect the imposing bases, such as:
   - the issue of norms having a high degree of complexity, regarding the incomes obtained from abroad;
   - protectionist legal regulations, aimed at restricting the settling of contributors (corporative or individual) in fiscal jurisdictions more attractive);
   - pressures on states or fiscal regions too permissive in connection with fighting money laundry at a worldwide level;
   - limitations of the confidentiality of personal data.

3.2. The Taxation of Incomes Obtained from Other Fiscal Jurisdictions

Practice has proved that a worldwide level there are applied two taxation principles: of residence and of the source of income.

The residence practice provides that there are submitted to taxation the incomes obtained by residents, irrespective the place where they were generated (a “global system” of taxation). In this case, an investor is confronting with the same marginal rate of imposing both for the incomes obtained at the place of residence, and for the incomes obtained from abroad.

The source of income principle (a “territorial” system of imposing), provides that the taxes are applicable at the place where incomes are obtained. This system is simpler to be administrated, than the first one.

But the economic implications of the two systems are complex. Thus, if one look for the production efficiency, then prices for the producers of the inputs and outputs should be balanced between countries, a fact that claims the use of the residence principle for the direct taxations and that of the source destination for the indirect taxations. The theoretic problem is which of the two categories of efficiency – of the production or of the consumer- should be privileged.

According to the theory of production efficiency sustained by Diamond and Mirrlees (1971), this should have priority because of the following reason: even if taxation will distort the consumers’ choices, it is preferred to be let un-affected the choice of consumer, in the same way as for a consume tax. This theorem was developed in the conditions of a closed economy, not having applicability in a global economy, but only if there can be autonomous incomes transfers between countries. Thus every country will apply taxation on the principle of the income source aiming at maximize the fiscal incomes.

It is possible that this principle, should have, up to the end, applicability at the level of the EU, because, through communitarian budget could be made re-distributions between the member states capable to compensate the mentioned stimulants. For the moment the matter remains mostly a theory, because the EU budget represents a bit more than 1% of the member states budget.

The problem can complicate itself if besides the aspects linked to *efficiency,* there are taken into consideration those linked with *equity.*

In conclusion, taken into consideration the efficiency considerations and the equity ones, it is absolutely necessary the adoption of a European taxation system, based mainly on the residence principle and on that of destination.

4. Effects That Can Be Generated by the Fiscal Competition

4.1. The Fiscal Competition Can Generate Important Positive Effects

The states acts as a monopoly, with a natural tendency to increase costs and expend its activities, needing an increasingly need of resources (by increasing taxes).
The contributors react in a different way:

- the transfer of the basis of taxation in another fiscal jurisdiction;
- the movement of the great mobility labour force;
- the hiding of the taxation basis (underground economy) etc.

Even tough, the large majority of contributors remain residents and within the same fiscal jurisdictions.

a) *the increase of the budgetary efficiency*, by offering the best services at the lowest cost for contributors (fiscal facilities). As there is the unanimous tendency of the national governments to “impose taxes for making expenses”, without an efficient administration of the public resources the fiscal competition can contribute (indirectly) to the limitation of these tendencies and stimulate the increase of the budgetary increase, by the use of some smaller resources and implicitly, to the reducing of the fiscal pressures.
b) *stimulates the economic activity* by reducing the profit which is largely charged.

A study made by OCDE estimates a positive effect of 0.5% of the rate of economic growth as result of a 10% reducing of the marginal rate of imposing, without having a uniform effect. If the reducing of the very high rates of imposing stimulates the growth, we can not state the same thing in the case of reducing towards zero of the lower imposing rates.

4.2. The Negative Consequences of the Fiscal Competition

a) The general erosion of the budgetary incomes, with the consequence of non-adapting the reducing of the budgetary deficit, within the limits imposed by the Stability and Growth Agreement.

This effect can be generated through the reduction of collection of money from the taxation upon the mobile imposing bases, such as:

- as a result of the reduction of the imposing rates;
- as a result of the migration of the imposing bases towards the countries with lower imposing rates.

A research made by the European Union in 2000, shows that a maximum budget of 35% of the GDP can assure an optimal cost for financing public goods, if governments would operate with maximum efficiency. They also state that taxes on capital would not reduce less than 3%, as a result of the fiscal competition.

Under the conditions in which the taxes on capital are of 20% of DGP, within the EU the probable reduction of money collecting, due to the fiscal competition would not overpass 0.5% of the GDP.

b) The motion of the fiscal burden on the few motioning imposing bases, with negative effect on the social level.

The losses of budgetary incomes caused by the reducing of the fiscality upon the mobile factors of production could be compensated, theoretically speaking, by increasing the direct taxes (as a rule excises etc). This situation leads to the repositioning of the structure of direct taxes.

The report of the European Commission from 1996 (Monti report) shows that in EU, the imposing rates of the capital and the independent activities have reduced with a tenth between 1980-1993, while the imposing rates of remunerated labour has increased a fifth. On the other hand, money collection from the tax on the personal income remained practically constant as proportion in DGP, in the last 20 years: 11% of the GDP in 1980 and 10% of the DGP in 2002.

c) Influencing the decision of investments placement (distortion of the resources allowance)

This point of view was often disputed on the consideration that the choice of the placement of an investment depends in a great extent on a complexity of factors: getting closer to the consumers, cheap qualified labour force, proper infrastructure, favourable legal regulations etc.

A study made in the years 200 and 2003 at the EU level, shows that reducing with one percentage point the imposing rate in the host country determines an increase of the direct foreign investments in that country of 4.3% and respectively 3.3%. But the taxation system influences the investment decisions and directly, such as: the ambiguities of the fiscal regulations, the abundance of imposing rates, the frequent and non-predictable changes of the legislation, the level of corruption etc.

5. Harmonizing Measures of the Direct Taxes of the Physical Persons' Income within the EU

Up to now, there has not been at the EU level any attempt to harmonize the taxes on personal income, a fact that reflects the political sensibility of this matter. It is true that the tax on personal income may influence the saving and investment decisions at the international level, the circulation of persons and indirectly, the choice of placement for the leading campaigns. The only initiative of large scale communitarian regulation of this matter refers to the taxes obtained from the interests resulting from physical persons' deposits.

Though the matter was not so important as in the case of the tax on capital, because the mobility of persons within the EU space though limited. On long term, yet, the tendency is to increase this mobility, fact that will ask a greater attention towards to the inherent fiscal matters.

Conclusions

We consider that although fiscal competition leads to the limitation of the expansion tendencies of the public sector, its implications upon the welfare of the citizens are not very shaped in the literature in the field. It is possible that the reducing of public expenses be produced especially in those fields which o not beneficiate of sufficient politic or union support, than in the fields where the greatest waste is registered. More over, it is possible that the politicians should not take into account this constraint on the side of incomes, continuing to increase public expenses, with direct effects upon the budgetary deficit.

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