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**SUMMARY
DOCTORAL THESIS**

**ACCOUNTING –SOURCE OF INFORMATION FOR THE
OPTIMIZATION OF FISCAL CONTROL**

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- ✚ databases
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- ✚ data
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- ✚ evasion
- ✚ financial
- ✚ tax
- ✚ fraud
- ✚ intra-Community
- ✚ legal
- ✚ mechanism
- ✚ the person
- ✚ personal
- ✚ loss
- ✚ product
- ✚ profit
- ✚ source
- ✚ Member State
- ✚ underground
- ✚ evading
- ✚ fee
- ✚ currency
- ✚ revenue

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Abstract

The paper "Accounting - source of information for optimization of fiscal control", aimed at researching the way in which the fiscal-accounting information can be identified and used in the optimization of fiscal control.

The main reason for choosing this paper resides in the fact that, at a national level, the phenomenon of tax evasion and fiscal fraud causes an amount of considerable loss in the resources found at the state's disposal.

The topic addressed is undoubtedly a modern one, because finding solutions through fiscal control to limit losses from tax evasion and fiscal fraud manifestation has positive effects in attracting additional amounts to the State budget.

At present the fiscal control in Romania does not have an overall picture of the legality of the economic activities carried out by the legal or natural person subjected to the fiscal control and this aspect can be due to the fact that it does not have a base of reference to which to relate. In this sense, there are considered parts of the phenomenon without reaching the substance of things, namely the sources of money to finance an individual or a business.

In our vision the amounts of money withdrawing from the tax liability payment arrive, sooner or later, into the pockets of those who commit fraud, and for such income people involved do not hold legal documents for proving the source. Bearing in mind that the amounts obtained from tax fraud are introduced into the economy by purchasing assets, there is a discrepancy between the legal resources of the one who commits the fraud, on one hand and the goods and amounts held by it on the other hand.

Knowing that some frauders have holdings in the share capital of the company, as well as various qualities for patrimonial or nonpatrimonial entities, in order to have an overview of the phenomenon, we have correlated the accounting information, resulting from the analysis of entities owned, with that at the level of the individual, with interests in an entity. We believe that, as a whole, the analysis of the activities of business and personal tax allows the fiscal control to get a comprehensive tax and control information instead of a reduced one that does not address in depth the phenomenon.

The scientific research has been concentrated at first on theoretical debates focused on practical grounds, so as to characterize the contents of the theme addressed. At the same time, we showed a special interest for the practical part, that allowed us to identify some pragmatic solutions which, accompanied by an appropriate legislative support to improve the means and methods of fiscal control by using accounting information from all levels of accessing it.

In the first chapter "***The need for fiscal control in combating fiscal fraud***" we analyzed the situation of the European Union and Romania in the global context. We aimed at better knowing the information regarding the size of the underground economy and the losses resulted from tax evasion not only at the Community level, but at the national one too. They were also taken into account the factors that, in our understanding, influence and achieve a

justification of fiscal control effectively. It was found that at Community level, the combination of tax evasion and avoidance of taxes produces annual losses of over 1,000 billion Euro, representing the cost of the Governments from the Member States. Nationally, the losses from tax evasion have been located, in the year 2012, at 18 billion Euros, representing approximately 14% of the G.D.P. Thus, the fiscal control adds new meanings, both at the level of each EU Member State and at EU level as a whole. Challenges regarding prevention and combating tax evasion are bigger and bigger, taking into account phenomena such as: globalization of the economy, the technological development and internationalisation of the fraud. The research proved that there are no "recipes" for the general approach of fiscal control, both at community and at national level. It was appreciated that the cornerstones in justification of fiscal control are value added information related to: the place where it is produced, the persons who produce it and the sector of activity it belongs to. Possession of information on the sector of activity, in the form of value added tax, allows us, firstly, to introduce the performed operations in the category of legal or illegal, and secondly, to identify the risks of avoiding the payment of the taxes to which the economic operators activating in that sector are exposed to. It has also been revealed that in the development of the underground economy and the practice of tax evasion the greatest influence is due to some factors such as: fiscal pressure, fiscal ethics and the right functioning of state institutions. A component that does not necessarily depend on the level of fiscal pressure and that attracted our attention was the weakness of tax administration. In this respect, it has been outlined the idea that the imposable subject who "senses" that the probability to commit fiscal fraud is big, without detecting a same intensity risk to be identified and to suffer the consequences of his deeds, will „taste" the forbidden fruit of fiscal fraud. Thus, the fiscal control should identify its weaknesses and take corrective action so that the financial interests of the State should not be affected as a result of the manifestation of the phenomenon of tax evasion.

In the second chapter, "***The dichotomy of professional bodies involved in detecting fraud***" we performed an analysis at a global, community and national level of the bodies with incidence in the phenomenon of fraud.

In the global approach we examined fraud at the level of the organization, from the perspective of the activity reports provided by the world's largest professional antifraud organization, i.e. the Association of Certified Fraud Examiners in Fraud. We split off the idea that evasion is closely related to fraud at the level of the organizations, since the sums and assets stolen from the organizations "escape" taxation imposed by the tax authorities. Fraud at the level of the organizations has been grouped into three main categories, namely: unlawful appropriation of assets, corruption and fraudulent financial reporting. The bottom line is that illicit appropriation of assets is the most common type of fraud, followed by fraud through corruption. Fraud through fraudulent financial reporting registers the smallest percentage in the analysed cases, but it generates the greatest loss of all fraud categories. In most of the investigated cases, the author of the fraud has shown unusual behaviour traits, the so-called *red flags*. The most important red flag was the one of the financial possibilities which overcome the frauder's

income. The average percentage of 50% of the cases investigated, in which the losses in the fraud are never recovered, showed the importance of fraud prevention. It has also been drawn the conclusion that the existence of strong bodies to identify fraud in its original form is urgently required so that losses resulting from its manifestation to be minimal.

At Community level, the European Commission created electronic systems that facilitate the mutual exchange of information both between the competent authorities of the Member States, and also between them and O.L.A.F. It has also been observed that there have been taken measures of transparency for the activities performed by the fiscal authorities, economical entities and the natural persons in order to restrict the phenomenon of fraud, corruption and fiscal evasion. In addition to the measures taken at the level of each State, the key to cooperation in the fight against tax fraud is the exchange of information. We reaffirmed the idea that the problem of combating tax evasion and fiscal fraud has become a global one requiring global solutions and thus, it has been presented the new global standard for automatic exchange of information, adopted in the year 2014. At the national level, fiscal fraud has been approached from the perspective of the professional bodies, as well as from the one concerning the reorganization of A.N.A.F. in 2013. As far as the main professional body, CECCAR, is concerned a statistical analysis on the involvement in fraud prevention was made in the period 2011-2012. This analysis tried to correlate the number of active contributors, registered at Mehedinți Trade Register Office, for which accounting management is mandatory, with the number of clients, beneficiaries of the provision of accounting services, stated in the report of CECCAR Mehedinți. Between the number of clients enrolled as beneficiaries of the provision of accounting services in the activity reports of Mehedinți CECCAR members and the number of active taxpayers enrolled in Mehedinți O.R.C. for which conducting accounting was mandatory, significant differences were found. Taking into account these discrepancies, it is questioned the credibility of accounting information presented in the financial statements of businesses, as well as the status of the person providing information on accounting, in terms of training and preparation of legal forms for the provision of accounting services.

In the third chapter entitled **”The fiscal control performed on legal and natural persons through information access”** we have analysed the performance of the fiscal control on both the legal person and the natural one with interests in the economical entity: shareholders, associates or administrators.

In the tax control over legal persons there have been detailed financial information that may result from the analysis of financial situations, depending on their composition. The way in which the accounting information can be purchased has been structured in three levels of access, as follows: level 1 implies access to public data for any person concerned; level 2, specific to persons who operate within the authorities managing the various databases; level 3, specific to control bodies of the Ministry of public finances or other bodies empowered by status to carry out controls of businesses.

After presenting the way in which the accounting information can be accessed, we came to the conclusion that the information resulted from the

accountancy of a legal person should be correlated and extended to the natural persons who hold the quality of associate/shareholder or administrator for the legal person investigated from the perspective of the source of owned wealth.

In the fiscal control performed on the natural person we had in mind the period before the revolution in December 1989 and that after that date, up to the present moment. Before the 1989 revolution, the fiscal control of natural person was made under law 18/1968, the famous law of unlawfulness. We observed that even if, in some cases, a lot of abuse has been identified from the part of the control organs, all in all, the unlawfulness law has been considered a reference point to which all the goods owned by a person could be reported as compared to the income declared to the fiscal organs.

After the 1989 revolution tax control on natural persons with interests in economic entities has been conducted on two levels.

The first level took into account *the person with the required declaration of wealth*, for which there were adopted a series of normative acts that have aimed at finding correlations between the sources of income of the property and the amount owned. The Declaration of wealth has become a public document since 2003. The institution that can start and conduct thorough check up is the National Integrity Agency. They decide to start checking up when they identify a difference bigger than 10,000 Euro or the Romanian equivalent between the owned wealth and the income realized by the investigated person.

The second level has targeted *the people who haven't had the obligation to declare the property* for which there was no legislative provision regarding the correlation of sources of income with the property and amounts held until December 2010. For the first time, after the revolution of December 1989, it was mentioned in a normative act the fact that if the tax authorities identified income whose source could not be proved, should be taxed at a rate of 16% on the taxable base adjusted. Fiscal control for the difference between the income declared and personal tax situation must be greater than 10% but not less than 50,000 lei.

The correlation of the information from the legal entity level with that at the level of the natural person had in mind the fact that all the "Tools" used by legal entities, for the reduction or cancellation of taxes and duties, have a direct correspondance in the wealth increase of the natural person who holds the quality of associate/shareholder or administrator within the legal person. In certain cases, when a member/shareholder holds functions with reporting obligations of wealth in order not to get in the "crosshairs" of the fiscal organs for the goods and amounts for which he has no legal provenance, he decides to declare those goods as being owned, at least on paper, by other persons, and in reality those goods are at his disposal.

In order to fully understand how fraud appears and develops, in the fourth chapter **"The Analysis of the Financial-Accounting Mechanisms"** we followed the way in which the fiscal obligations withdraw from payment. This circuit has been observed on two levels: national and community.

For the *Approach at Community level* there were analyzed three mechanisms of fraud.

The first mechanism of fraud had in mind *the practice of illegal circuits of sale of goods, both on the territory of the EU Member State from which the goods were actually delivered, as well as in Romania, where we could find the final beneficiaries of the goods purchased within the Community. We found that the tax losses are recorded in both the Member State of dispatch, as well as at the level of the beneficiary State.*

The second mechanism of fraud aimed at *practicing a legal circuit of sale of goods on the territory of the EU Member State from which the goods are actually delivered, followed by a circuit of illegally selling goods on the territory of Romania.* It has been noted that the tax losses are recorded on the Romanian territory and consist of hiding or diminishing the taxable base for the calculation of income tax/income and/or VAT. Two ramifications have been identified in the sense that the decrease of inventory of the intra-Community purchased goods was done through a fictitious intra-Community delivery or through tax vouchers.

The third mechanism has approached *the EU funds fraud*, accessed by beneficiaries from Romania. In this sense, there were identified fictitious circuits of supplying goods and services at overvalued stock, as compared to those charged on the market, by interposing an intra-Community acquisition of a company from Romania, with a behavior typical for the ghost firms. The fiscal losses were registered at both the EU budget and the Romanian state budget.

In the approach at national level there were analyzed four mechanisms of tax fraud practised on the territory of Romania.

The first was *the tax fraud in retail*, through detailing the supply and marketing circuits of goods without legal documents. Tax implications consisted in evading payment of income tax liabilities/income taxes and/or VAT.

The second mechanism of fraud *revealed fictitious supplies of goods and/or services from firms in Romania with a specific behavior of the ghost.* Two ramifications have been identified in the use of the mechanism. The first branch endorsed the introduction on the expense of the goods fictitiously supplied for fiscal advantages. The second branch has had the role of creating provenance for goods which actually exist, but do not have legal provenance. Tax implications of the mechanism consisted in reducing tax bases, and "removal" of amounts from the beneficiary firm.

The third mechanism of fraud referred to *the trade with ferrous and non ferrous waste.* To avoid paying the contribution to the environment and income tax, related to the waste purchased from natural persons, without the issuance of documents, there have been practised illegal supply circuits.

The fourth mechanism of fraud had in view the avoidance to pay the obligations *through the assignment of the social shares*, from which a component was referring to a firm with debt accumulated during the period of operation, and the other targeted evading tax on taxable investments based on the difference between the sales value and the nominal value of the shares.

The aim of *the last chapter* entitled **„Detection of fraud and fiscal control optimization. Case studies"** was to add value through case studies, to the whole scientific endeavor and, thus, to observe how accounting

information resulting from verification of a legal person, is used in the extension of fiscal control over the natural person who holds the quality of associate, shareholder or administrator within the legal person.

The first case study, *the detection of fraud in the retail trade*, aimed, in particular, the analysis of financial and accounting information retrieved in accounts published on the website of the Ministry of public finance with regard to the work carried out by a legal entity in 2001-2012. It outlined the idea that prior documentary research results in the formation of the working hypotheses that can be clarified during fiscal control. The risk analysis carried out showed that the trader under investigation meets the characteristics to fit in "robot portrait" for taxpayers who have not registered the obligations towards the State budget.

The second case study aimed at *detecting fraud in intra-Community trade*. In the analysis there was processed information in the data bases of A.N.A.F., concerning a legal person registered in Romania, owned by a natural person of Bulgarian origin. There have been identified the illegal sales circuits of the Bulgarian associate practised on the territory of Bulgaria. Illegal circuits have reflected the fact that the goods were marketed on the territory of Bulgaria, without documents, and for the decrease of inventory there have been drawn up documents concerning fictitious intra-Community deliveries from Bulgaria to Romania. For the optimization of the fiscal control it has been specified the idea of reducing the period of time when the informational exchange is realized and the necessity of a stronger direct cooperation between the representatives of the fiscal authorities from the EU member states.

The last case study focused on *the detection of fraud in wholesale trade* carried out on the territory of Romania. In this analysis we have accessed public information, A.N.A.F. data bases, as well as accounting and bookkeeping documents of the investigated legal person. It outlined the idea that illegal circuits are practised at sourcing and marketing of goods. While the illegal purchasing circuits implied acquisitions of goods or/and services from firms with a behaviour typical for ghost firms, the illegal sale circuits had real firms as beneficiaries. The circuit of the money for the payment toward the supplier firms was based on large cash deposits of the shareholder. The fictional character of the deposits in the firm resulted from the fact that the associate did not have documents regarding the legal provenance of these amounts, taking into account the fact that in the past ten years he has not obtained taxable income.

In the analysed case studies it was outlined the idea that after performing fraud operations, the involved individuals hold the so-called "black money", for which there is no lawful provenance. We also underlined the idea that if the fiscal organ had "the fulcrum" in a declaration of assets, at the level of the natural person, updated annually with the acquired goods and amounts, then the fiscal control might have a different vision of the approach, both to the legal person and the natural person with interest within the legal person. In this sense, the amounts, without legal origin, obtained in all areas of activity, including bribery and corruption, would be perceived easier. In order to complete this observation we have come up with the idea regarding the existence of an informational circuit for the legal persons and the natural ones too. The analysis of the financial-accounting information has in mind the

correlation between the financing sources and the possessed assets, which, in our opinion, would create other premises for fiscal check up.

The General conclusion drawn is that, in addition to the strict measures taken at the level of each Member State, joint efforts are needed, both at Community level and at the global level, to combat tax fraud and evasion.

We appreciate that the approach taken and the theoretical analysis of the functioning of the mechanisms of fraud, through case studies, have led to the achievement of the objective of the proposed objective, i.e. to outline a picture of the whole tax check, by correlating the accounting information resulted from the analysis of owned entities, with that at the level of the individual, with interests in an entity.

The research concerning the use of accounting information in optimizing fiscal control resulted, to some extent, in the finalities described in this paper, but also in the works, and articles published by the author. We also consider that the work has not exhausted all the theoretical-methodological and applicative aspects of the approached theme, but it may represent a benchmark for a new approach to matters which may grasp unapproached issues in this paper. At the same time, we believe that the theoretical aspects and applications, accompanied by the opinions, conclusions and proposals formulated in the thesis can be useful, both among the theorists and practitioners in the field.