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CAPITALIZATION OF FISCAL AND ACCOUNTING INTERFERENCES FOR FISCAL OPTIMIZATION

Theoretical articles

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Abstract

As economic entities in Romania are still in a relationship of interdependence between the accounting interest and the fiscal one, it makes the application of one or another accounting treatment under different circumstances on the transactions specific to the activity have a certain influence on the information released by the financial statements, but also on the tax bases and hence on the fiscal cost.

This article argues that the sustainability and performance of a business requires, in addition to the effective management of the economic and financial resources in order to maximise performance and to ensure the cash flows, that the management must take into account both the good informing of the information users through the financial statements, and proper management of the fiscal implications in order to record a fiscal cost as low as possible while respecting the legal framework so that the fiscal risk is avoided or reduced as much as possible.

1. Introduction

Management, in order to meet the informational interests of all users of financial accounting information, has to organise and manage accounting to ensure, through the financial statements drawn up, a loyal and complete image of the financial position, financial performance and cash flows of the entity. At the same time, we must bear in mind that through its activity and capacity of taxpayer, the entity becomes, directly or indirectly, generator of fiscal liabilities as a result of the use and accumulation of resources, expressed as revenues, expenses incurred, labour input, profit achieved, holding of a technical patrimony or real estate assets, etc.

Since accounting is the one recording the transactions and events that generate the elements according to which the tax bases are established, it becomes the main source of information for the calculation, recording and settlement of tax obligations. Thus, one of the information interests that must be achieved by accounting through the financial statements also becomes the fiscal one, thus achieving an objective interference of the two areas.

In the practice of an economic entity there are many cases in which the application, in different circumstances, of a certain accounting treatment or another on the transactions specific to the activity influences the information released by the financial statements and also the tax bases, which requires that the issue of this report be addressed so that the opposition between the accounting and the fiscal interest is managed effectively within each entity, so that both are achieved.

Furthermore, if we emphasise the approach of the interests divergence only through the fiscal interest, we must keep in mind that, on the one hand, the state is interested in making fiscal revenue as high as possible on account of the entity, while the entity, through its management, is concerned, naturally, by the fiscal cost reduction, by the conservation of the cash flows and the preservation of the outcome as an indicator of its own efficiency against the mandate given by the business owners.

2. Summary of Literature in the Field and Research Methodology

The issue of the relationship between accounting and fiscality has been addressed in the literature especially in the recent decades along with the general interest of companies to manage more closely the area and the effects of the crossroad between the accounting rules and principles with the fiscal ones, especially in the context of the application of International Accounting Standards-IAS/IFRS and of the choice option through the accounting policies between one or another accounting treatment for the recognition and assessment of the elements specific to transactions, knowing that one alternative or another may have the effect of increasing or diminishing taxable base.

Studies and approaches, both nationally and internationally, on the relationship between accounting and fiscality, made reference to the report of independence or dependence of the accounting rules with the fiscal ones, manifested mainly as a result of the development and coexistence in time of the two accounting systems: the continental ones which outline a dependency relationship of accounting to fiscality, developed in the states under the influence of the accounting system of continental-European origin, and the Anglo-Saxon one, developed in the UK and in the countries under its influence, including the U.S. (Johansson and Tranberg, 2007; Norberg, 2007; James, 2009); Delesalle, 2001).

In the Romanian economic environment the dependency ratio of accounting to fiscality and its effects on the information provided by the annual accounts, but also on the fiscal cost was confirmed and argued by several authors (Ristea 1998; Istrate 2001; Morariu 2005; Răileanu 2009), discussing several issues and divergences of the accounting interest directed towards achieving the loyal image on the financial position and performance presented in the financial statements and of the fiscal one permanently influenced by the fiscal rule imposed by the state. Despite the efforts of accounting normalisation under the influence of the European and international bodies, the effects mentioned are still visible in Romania, even if they have lower intensity. The attention in this area further arouses interest, being addressed in the field of the accounting financial theory, but less in the field of the practical possibilities of balancing the accounting interest with the fiscal one within entities through an effective fiscal management. We aimed to focus our attention on this area of interest in this article, in order to seize the aspects concerning the accounting and fiscal interferences, as well as the opportunities of directing the management decisions towards the optimisation of the fiscal cost without giving the impression that for the achievement of this goal we have to resort to practices in the area of "accounting engineering" or "creative accounting".

The methodology used for the preparation of this article has considered a selection of documentation, the study, the interpretation and the qualitative analysis of the information specific to the topic, but also the experiences met in the fiscal and accounting practice of businesses, as well as the participation in various national and international debates and conferences.

3. The Source of Differences in the Accounting – Fiscality Ratio

Basically, in each economic entity, accounting, as the main source of financial and accounting information for all users, tries to separate itself from fiscality in order to become neutral, but at the same time compatible with its objectives.

It is known that at international level the quality of the accurate image of financial statements, does not have the same degree of appreciation, being treated differently from country to country and according to the type of relationship in which accounting is, as compared to fiscality. When the accounting information is directed primarily towards ensuring the investors' interest, a principle specific to the Anglo-Saxon accounting, we talk about the situation in which accounting is disconnected from fiscality. If the information provided by accounting is intended to ensure the fiscal interest, then we talk about a system in which accounting is connected to fiscality, which may cause the annual financial statements to present unfavourably the economic realities of the entity. Such a system is typical to the continental accounting model, which was also at the basis of the evolution of the accounting system applied in Romania. In this context, in the relationships of connecting accounting to fiscality, there is a divergence since everyone has different goals. While the principles, rules, norms and regulations of accounting, such as the recognition and assessment principles, are subordinated to presenting a loyal image of the financial position and performance of the economic entity, the fiscal rules are chiefly aimed at increasing the efficiency of taxes and a fast insurance of the need for budgetary resources available to the state and, although promoted as enablers, in practice they can sometimes be factors inhibiting the economic activity. Between these two interests, in each business, there is also a third one, that of the management, also naturally interested in preserving the cash flows and in preserving the result as an indicator of the own efficiency to the mandate given by the business owners.

The issue of the relationship between accounting and fiscality is manifested especially when the information – accounting system becomes the necessary support for the operation of the fiscal system, that is at the level of the economic entity, the structures of data and information provided by accounting are targeted and used to meet the fiscal interest of the state which results in the fact that the report mentioned must be discussed and analysed in the context in which accounting is or not connected to/disconnected from fiscality. In this sense, accounting theory admits that in the countries in which the accounting information is aimed primarily at the state, the image is considered loyal to the extent to which the financial statements comply with the fiscal regulations, which leads to a degradation of the quality of the accounting information presented in the financial statements (Morariu 2005).

Although there are principles and fiscal rules for the application of each tax or duty owed by the entity, accounting is the one that records the transactions and events generating the elements according to which the taxation bases are established, being the main source of information for calculating, recording and settlement of fiscal obligations, thus making a connection and an interference relationship between accounting and fiscality. Such a relationship is also mentioned by other authors: "accounting represents a starting point for fiscality, becoming almost a unique alternative because both accounting and fiscality at microeconomic level have as main goal identifying the results obtained by an economic entity, what differs are in fact the objectives taken on by each, according to the accounting principles and to the relevant fiscal principles" (Norberg, 2007).

Since taxation has multiple aspects, the fiscal issues which managers must face are extremely complex, and if some things are overlooked, they can become costly for a business. These problems are amplified when the accounting and fiscal normalisation allow interferences of the rules specific to the two fields.

Furthermore, if the situation is seen from the perspective of the management's responsibility to watch over achieving the "loyal image" of the financial position and performance expressed by the financial statements, and at the same time to also watch over minimising the fiscal costs, due to the recognition and assessment of the elements related to the transactions, it is possible that a solution consistent with the accounting principles and rules be incompatible with the terms of the fiscal rules and thus arises a disagreement situation between the company management and the fiscal administration, which may be a potential risk generating penalty measures from the fiscal administration.

By choosing and applying accounting policies, accounting rules sometimes allow alternatives concerning the recognition and assessment methods in accounting, which in the case of connecting accounting to fiscality can lead to different results. Furthermore, due to the expressions of the accounting and fiscal interest, there may be situations in which the producers of the accounting information, through their privileged position in the company, have the opportunity to use accounting and fiscal regulations, according to their own interest, meaning that the accounting treatment applied to determine the taxable base (especially of the outcome) may be influenced subjectively by managers, so that the value of the tax that will become fiscal liability generating cash outflows will be kept as low as possible.

In order to harmonise these differences there occurs the question of reconciling the relationships between accounting principles and fiscal rules, so that choosing one of the methods must be compared with the fundamental objective of accounting, which must provide relevant and reliable information for all users, including for the state, in terms of its primary fiscal interest.

4. Fiscal Management and Optimisation

Undoubtedly, the current reality brings fiscality at the heart of management concerns as a major factor in guiding decisions regarding the fiscal cost of the business, with a major impact on the balance of the cash flows and of the investment strategy. In this context it is natural that through their own strategy, the fiscal authorities aim at maximising their revenue through taxes and duties at the highest level, but at the same time, within companies, it is important for managers to understand and to manage the fiscal implications of the business they manage in order to be able to establish their own fiscal strategy aimed at reducing the fiscal costs and at avoiding risks.

Within the economic entity, the conciliation between the interest of accounting and that of fiscality concerning the cushioning of the effects of the differences mentioned must be done through fiscal management whose objective should cover the overall analysis of the interferences and deviations between the accounting rules and the fiscal ones and the choice of the best solutions to harmonise the accounting interest with the fiscal interest in the most favourable sense to their own interests and in terms of achieving fiscal efficiency and fiscal risk minimisation within the entity.

In this context, it is necessary for fiscal management to be integrated within the objectives of the overall strategy of the entity and to delineate itself within the business as a separate component of the activity, just as the other policies and strategies, such as the development one, the production one, the personnel one, the investment one, the commercial one, etc.

It is known that the fiscal system has a significant impact on the strategic planning for the development of a business, heavily influencing the decision-making process since the fiscal mechanisms contribute to inciting or inhibiting the businesses development, using taxes and duties as fiscal levers, giving fiscal “benefits” in various forms related to certain behaviours and actions in which the entity falls. A major part of these facilities refers to the conditions of costs deductibility engaged in carrying out the activity in relation to the income earned when determining the fiscal result as taxable basis, others referring to: discounts, exemptions, instalments, deferred payments of certain budgetary obligations, etc.

In order to benefit from these fiscal advantages it is first and foremost important that they are known and consistently applied by the entity’s management, with the end of reducing the fiscal bases and as subsequent effects the decrease of the cost with the tax borne by the entity with implicit effects in preserving the cash flows remaining at hand to allow other payments to third parties.

One of the major requirements of fiscal management is fiscal optimisation, which is considered achieved when the management actions, solutions and decisions ensure the parallel achievement of two objectives:

- fiscal efficiency, which presumes that a fiscal cost minimisation has been conducted, resulted in the preservation of the cash flows or by delaying the cash outflows.
- the fiscal confirmation (fiscal security) which is considered to be achieved if there is the acceptance by the fiscal administration in terms of legality of the measures taken by the entity’s

management that led to achieving fiscal effectiveness (Istrate 2000).

Fiscal management, addressed from the point of view of fiscal optimization, should not make us think about tax evasion, but, on the contrary, a proper management of taxes and duties can lead to avoidance of tax evasion. In this respect, a French author remarks: "to administer taxes means first accepting that even if they are an unavoidable obligation of the company, they can be used in its interest by changing them into a strategy active variable" (Collette 1994).

Therefore, fiscal optimisation consists in taking certain decisions in order to reduce the fiscal cost, the taxation bases, so that sizing the expenses with the taxes, the duties and the contributions achieve the lowest possible legal level without affecting the usefulness and credibility of the financial statements meant for users, but also under conditions of fiscal risk avoidance.

The decrease of the fiscal cost should be regarded as any other cost that can be reduced as a result of certain measures that subscribe to the entity's overall strategy. The fiscal cost should not be understood simply in terms of the amount of taxes, but also of the payment terms and recovery time of credits or tax losses.

Practice has shown that fiscal optimisation is possible especially under the conditions in which fiscal legislation is characterised by flexibility and gives the company the opportunity to choose among several alternatives, which most often concern the accounting and fiscal options and treatments.

We must also keep in mind that an excess of ingenuity in the direction of fiscal optimisation actions and decisions can harm other goals, even the "loyal image" of the financial situation and of the results and to give rise to manifestations of practices beyond the "bearability" of accounting or fiscal rules.

5. Options and Means of Achieving Fiscal Optimisation

In general, accounting and fiscal regulations offer opportunities and options for the recognition, assessment and accounting registration, fiscal registration, fiscal applicable regime, declarative regime, etc., on which depends the frequency and the types of use of the actions directed towards achieving fiscal optimisation.

The overall direction of the actions and decisions taken to achieve fiscal optimisation, in terms of reducing the tax burden or to delay it, may aim at the following objectives:

▪definition, integration and manifestation of fiscal management as part of the overall management of the enterprise in terms of fiscal efficiency;

▪ knowledge, learning and adequate administration of the fiscal legislation, so that all can benefit from the tax relief in order to minimise the fiscal cost in terms of tax efficiency, but also to ensure compliance with the legal regulations;

▪ providing a presumption of acceptance by the tax authorities of the management ability in interpreting and applying the fiscal and accounting rules in its favour and assuming a potential fiscal risk controlled as a result of an error or omission in the interpretation of events, transactions or legal texts;

▪ assessment and control of fiscal optimisation strategies by balancing the risk in return for the gains resulting from applying these strategies (Chilarez et al, 2013).

The behavioural approach in order to achieve the fiscal optimisation can aim the inaction (refraining from doing) as a means of fitting into one form or another of a legal right or the action to choose (to do) for specific solutions or situations suggested by the law. Therefore, in order to achieve the desideratum that concerns the fiscal optimisation we should not refer only to the fiscal decisions, but we should also analyse a number of other decisions that cover overall aspects of all the actions and consequences within the entity corresponding to the activity, location, legal form, or specificity of each business and, not least, the accounting referential to which accounting relates (nationally or internationally). Such decisions aim both at the possibilities offered by the accounting and fiscal regulations, and also at the organisation or time of intervention in certain directions within the entity's activity, among which the following may be mentioned:

- the use as much as possible of the tax incentives which take the form of incentives established by legal acts referring to: discounts, exemptions, instalments, deferred payments of tax liabilities;
- delaying at maximum the time for payment of tax liabilities aiming to regulate them in time so as the damage of the treasury be delayed, but without incurring any penalty over the normally accepted ones and without interfering with the sphere of tax evasion;
- recovery in due time of the tax claims or avoidance of holding tax claims allowing to obtain low costs of financing the fiscal obligations;
- performing/conducting taxable operations in areas where the level of taxation, the costs and the fiscal risks are the lowest;
- developing a fiscal strategy aimed, for example, at setting up or relocating businesses in free or disadvantaged areas, for whose development tax exemptions have been given or considerable reductions of them;
- restructuring of certain activities and their segmentation on more companies in order to change their classification into more advantageous fiscal regimes (functioning as a micro-enterprise, non-registered/registered as taxable person paying VAT, the application of the VAT regime on collection, etc.;
- the use of accounting and fiscal policies and treatments suitable to the specific activity and operations achieved under conditions of harmonisation of the accounting interest with the fiscal one, of accounting rules and principles with the fiscal ones, concerning the following:

- setting adjustments for depreciation or loss of value on account of expenses in case there is a reversible decrease in the value of certain assets correcting thus, by reduction, the entry value of the fixed assets, stocks, claims, placement securities, in order to provide the necessary resources to cope with future expenses or to offset the reduction in the revenues from claims, their establishment being imposed by the application of the prudence principle.
- the analysis of the accounting – fiscality report concerning the depreciation of tangible and intangible assets is a very important aspect in determining the company's financial situation in the context of the existence of several accounting methods for determining and recording the depreciation, which requires from the entity the possibility to choose between several methods, answering the investment interest, which most often competes with the state's fiscal interest. This is possible since each of the elements underlying the calculation of depreciation (lifespan, in the case of tangible fixed assets and the amortisation period in the case of intangible assets, but also the entry value of the assets) can influence its size and hence the result since amortisation, highlighting an operating expense, is deducted from the result of the year. The greater the useful lifespan of an asset is, the lower will be the depreciation expense in the current period and vice versa. The higher the input value of an asset is, the higher the cost will be and vice versa. Moreover,

the depreciation regime (fast, linear, digressive) applied can determine the amount of the profit, being known that a high amortization causes a small profit or the ability to finance itself, knowing that a high amortisation causes a high self-financing capacity and vice versa.

- choosing the best option in accounting for the borrowing costs in the situations regulated, which according to the basic accounting treatment allows the recognition of the expenses with the interests as expenses of the current period in which they occur, while the alternative treatment allows their capitalisation in the cost of assets, thus triggering the other effects on the size and timing of constituting the result and the fiscal obligations related to them.

- the choice of the methods of recording the entry cost, respectively of assessing inbound and outbound stock to commissioning consumption, lead to different values on the result, especially in the inflationary periods. The inclusion or non-inclusion of certain expenses in the cost of buying the stocks creates opportunities to influence the result. In the case in which the management of the enterprise shows an attitude of increasing the current result it will proceed to include more spending in the acquisition cost, and in the case in which it is interested in diminishing the result in order to pay a lower tax it will eliminate a number of expenses from the acquisition cost on account of the current expenditure.

- the change of the maturity proceeds and the chargeability of certain delivery operations, through the option of collecting the deliveries with payment in instalments and coverage of the corresponding income in the taxation basis on the maturity of the respective instalments, the corresponding expenses being deducted on the same date of maturity;
- positioning the timing and the cadence of the supply with raw materials, goods or services from third parties in certain intervals/decades of the month, it is the case of the monthly adjustment operations of the VAT, by balancing the amount of purchases to the value of sales in the current month, depending on the interest of the entity to pay, compensate or seek reimbursement of VAT in the coming months;
- positioning the time of billing the goods and services to third parties as reverse operation of the previous situation concerning the VAT, or translating the income and expenses based on the propensity for a lower or higher result;
- using own financing through internal operations, such as those related to the allocation of the net profit for setting the statutory reserves and other reserves at the expense of distribution for the establishment of dividends or the extension of the dividends payment at the maximum terms allowed by law, since, being bearers of taxes on their payment, thus the payment deadline is changed;
- the use of practical possibilities of an effective management of transfer prices, focusing on observing the rules applied in the EU Member States.

All these possible ways of fiscal optimisation must be documented and analysed in detail, according to the conditions specific to each activity and to the legislation in force, so that the actions aimed at fiscal optimisation do not become an end in themselves, because there could be a conflict of interest between the managerial ones of the entity and the fiscal ones of the state.

The practice has shown that in many cases, from different interests, we resort to creative accounting, which can result in the distortion of the fiscal and accounting truth, but also the attraction of a fiscal risk and of the possible consequences including the classification as tax evasion.

6. Conclusions

Taking into account the interferences occurring in the accounting and fiscal process, reality has often shown that a solution in compliance with the accounting principles and rules may be incompatible with the fiscal rules. In the economic entities, the fiscal legislation heavily influences the decision-making process, especially when it is in permanent instability. The accounting rules allow alternatives concerning the registration and assessment in accounting and choosing one of the methods leads to different results.

In this context, the management should have a pro-active attitude in the strategic and decisional planning, oriented towards anticipating the implications of the accounting and fiscal regulations, having as goal the achievement of accurate and relevant informing of the users of the accounting information, but also creating fiscally efficient structures able to achieve an optimisation of the fiscal cost. In order to do this, managers must be aware and responsible that they must create the right conditions for an efficient fiscal management based on a balance between the fiscal cost influenced by the fiscal burden imposed by the state and the accounting interest directed towards a loyal image, and any divergence between the accounting policy adopted by the entity and the fiscal one must be reconciled in an extra-accounting way.

Achieving the fiscal optimisation as a result of the fiscal administration cannot be the object of a subjective fiscal attitude, but it must fall within the fiscal and accounting rules in an objective framework based on the professionalism of managers, particularly in the accounting-financial department in terms of fiscal efficiency and security, which do not entail the abuse of tax law with consequences opposite the purpose originally intended.

Beyond the subjective manifestations, in order to meet the interest of its users, the final criterion in choosing an accounting treatment or another should remain the need to provide a loyal image of the financial position, so that to ensure the credibility and relevance for the accounting information provided, in order to be useful in decision making for all users and they should not “hide” nor “embellish” certain situations and facts with effects oriented towards accounting manipulation or tax evasion.

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