

LOCAL TAXES AND FEES AS A SOURCE OF INCOME TO THE LOCAL BUDGET

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Abstract: *Public administration in counties, towns, communes is organized and functions mainly, based on the principle of local autonomy; according to the law, local autonomy means the right and the effective capacity of the local public administration authorities to solve and manage public affairs on behalf of and in the interest of the local communities they represent. The local autonomy is only administrative and financial, being exercised on the basis and within the limits provided by the law and concerns the organization, functioning, competences and attributions, as well as the management of the resources, which, according to the law, belong to the commune, the city, the municipality or the county, as the case may be. Summing up, local taxes and taxes, the main source of revenue for the local budget is based on the financial component of local autonomy.*

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JEL Classification: *K00, K34.*

1. Introduction

Local budgets represent the most important part of local public finances illustrating the economic relations of mobilizing the financial resources necessary for the realization of social, cultural, economic, social assistance and other actions under the competence of the local public administration authorities. Local budget means an act recording the income and expenditure of local authorities for a period of one year.

2. Taxes and fees

Taxes are generally a means of levying revenue from natural or legal persons made available to the state to cover public expenditure. The payment of local taxes and taxes is compulsory, non-refundable and without a counterpart on the part of the state. Taxes are the amount paid by a natural or legal person for services rendered to him by a public institution, public service, etc.

In turn, the revised Constitution of Romania in 2003 states that "Citizens have an obligation to contribute, through taxes and fees, to public spending. The statutory system of taxation must ensure the correct setting of tax burdens. Any other benefits are forbidden, except those established by law, in exceptional circumstances. "

Local taxes and levies are set according to the principle of local autonomy and based on the provisions of the Fiscal Code, which has been drafted so that taxpayers can follow and understand their tax burden, there is the necessary information on tax principles, mechanisms and procedures and also tax payers can easily analyze the influence of their financial management decisions on their tax burden.

Local autonomy empowers local public authorities with the right, within the limits of the law, to take initiatives in all areas, except those expressly given to the competence of other public authorities.

This concept is defined in Art. 3 paragraph 1 of the European Charter of Local Self¹-Government and in Art. 3 par. 1 of the Law no. 215/2001 stipulating that local autonomy means the right and effective capacity of the local public administration

¹ The European Charter of Local Self-Government was adopted by the Council of Europe in Strasbourg on 15 October 1985 and ratified by Romania through Law no. 199/1997, published in the Official Gazette of Romania no. 331 / 26.11.1997.

authorities to solve and manage within the law, in their own name and in the interest of the local population, an important part of the public affairs.

According to art. 4, paragraph 2 of the Charter, the local public administration authorities are recognized by law to be fully able to exercise their initiative in all areas which are not excluded from their competencies or which are not attributed to another authority.

According to the general principles of the same European normative act, the local public administration authorities have the right to sufficient own resources, freely disposed of in the exercise of their powers, the financial resources of the local public administration authorities must be proportionate to the competences provided by the Constitution; or by law, at least some of the financial resources of the local public administration authorities must come from the local taxes and duties, the level of which has the competence to set them within the legal limits.

According to these legal regulations, local autonomy is not only a principle of organization and functioning of public administration, but also a right of local public authorities, which is exercised by them in the name and interest of local communities.

This right is exercised by local and municipal councils, as well as by county councils, local public administration authorities elected by universal, equal, direct, secret and freely expressed vote, based on the list vote and the uninominal vote, as well as the independent candidacies .

Local autonomy concerns the organization, functioning, competencies and attributions, as well as the management of the resources that, according to the law, belong to the commune, city or county, as the case may be, and confer on local public administration authorities the right, within the limits of the law, to take initiatives in all fields, except those expressly granted to other public authorities¹.

Within the framework of the national economic policy, municipalities, cities, municipalities and counties have the right to their own financial resources, which the local public administration authorities establish, administer and use for the fulfillment of their competences and attributions, according to the law.

The financial resources available to the local public administration authorities must be correlated with the competencies and duties provided by the law.

The local public administration authorities administer or, as the case may be, have the financial resources as well as the public or private property of communes, towns, municipalities and counties in accordance with the principle of local autonomy.

In order to ensure local autonomy, the local public administration authorities have the right to establish and collect local taxes and fees, to draft and approve the local budgets of communes, towns, municipalities and counties, according to the law. Local autonomy is only administrative and financial.

In their turn, the taxes and duties regulated by the Fiscal Code are based on the following principles:

a) the neutrality of the fiscal measures in relation to the different categories of investors and capital, with the form of ownership, ensuring by level of taxation equal conditions for investors, Romanian and foreign capital;

b) the certainty of taxation, by the elaboration of clear legal norms, which do not lead to arbitrary interpretations, and the deadlines, modalities and payment amounts to be precisely established for each payer, namely to be able to follow and understand their tax burden, as well and be able to determine the influence of their financial management decisions on their tax burden;

¹ Art. 6 alin. (1) din Legea nr. 215/2001.

c) the fairness of taxation or fiscal equity ensures that the tax burden of each taxpayer is determined on the basis of the contributing power, respectively according to the size of its income or property;

d) Taxation efficiency provides similar levels of budget revenue from one budgetary exercise to another by maintaining tax, tax and contribution performance in all phases of the economic cycle, both in times of economic and crisis turmoil;

e) The predictability of taxation ensures the stability of taxes, taxes and mandatory contributions for a period of at least one year in which no changes can be made to increase or introduce new taxes, duties and mandatory contributions.

Local taxes and duties were initially regulated by Law no. 27/1994 modified by the Emergency Ordinance no. 64/1998 and repealed by Ordinance 36/2002. Ordinance 36/2003 was repealed by the new Tax Code Law 571/2003 modified by H.G. 44/2004, H.G. 1514/2006 and H.G. 1861/2006. These legal provisions allow local councils to determine these taxes according to the specific conditions in the territory, which since 1999 have been indexed with the inflation index.

Therefore, the deliberative authorities within the public institutions that have the capacity of principal orderer of credits can determine the level of local taxes and taxes taking into account the provisions of Law no. 227/2015 regarding the Fiscal Code Title IX "Local taxes and duties, art. 9, par. (1) of the Law 544/2001 on free access to public information, as subsequently amended and supplemented, art. 27 and art. 30 of the Law no. 273/2006 on local public finances with subsequent amendments and completions.

According to art. 7 of Law no. 52/2003, the public administration authority has the obligation to publish an announcement regarding this action on its own website, to display it at its own premises, in a publicly accessible place, in the framework of drafting draft normative acts, and to it sends it to the central or local media, as the case may be. The public administration authority will submit the draft normative acts to all persons who have submitted a request for receiving this information.

When publishing the announcement, the public administration authority will set a period of at least 10 calendar days for the draft normative acts referred to above, in order to receive in writing proposals, suggestions or opinions on the draft normative act subject to public debate.

Proposals, suggestions or opinions on the draft normative act subject to public debate shall be recorded in a register, indicating the date of receipt, the person and the contact details from which the proposal, opinion or recommendation was received.

Interested individuals or organizations who submit written proposals, suggestions or opinions on the draft legislative act subject to public debate shall specify the article or articles in the draft legal act to which they refer, mentioning the date of dispatch and contact details of the sender.

After fulfilling the provisions of Law no. 52/2003 regarding the decisional transparency in the public administration, with the subsequent amendments and completions, the draft on the establishment of the local taxes and taxes shall be submitted for approval to the Local Council in ordinary session. The logic for which the legislator has established this is that for ordinary sessions it takes 5 days from the convocation, enough time for local counselors and citizens interested in analyzing the draft decision and submitting amendments.

The decision on the establishment of local taxes and taxes is adopted by a qualified majority, with the vote of the majority of local councilors in office.

Therefore, local taxes and fees are established by decision of the local council, in compliance with the provisions of art. 489 par. (1) - (3) of the Law 227/2015 regarding the Fiscal Code: "(1) The deliberative authority of the local public administration, upon

proposal of the executive authority, may set additional quotas for the local taxes and duties provided by the law, of the following criteria: economic, social, geographical, as well as local budgetary needs, except for the fees provided for in art. 494 par. (10) lit. b) and c); . (2) The additional quotas established according to par. (1) may not exceed 50% of the maximum levels set out in this Title. (3) The criteria set out in par. (1) shall be decided by the deliberative authority of the local public administration "

In art. 491 of Law no. 227/2015 regulates the indexation of local taxes and duties: "(1) In the case of any tax or any local tax, which consists of a certain amount in lei or which is determined based on a certain amount in lei, the respective amounts are indexed annually until 30 April, by local councils, taking into account the inflation rate for the previous fiscal year, communicated on the official websites of the Ministry of Public Finance and the Ministry of Regional Development and Public Administration. . (2) The amounts indexed according to par. (1) shall be approved by decision of the local council and shall be applied in the following fiscal year ... ".

According to Article 454 of the Fiscal Code, local taxes and duties are as follows:

- a) Building tax and building tax;
- b) land tax and land tax;
- c) the tax on means of transport;
- d) fee for issuing certificates, permits and authorizations;
- e) the fee for using the means of advertising and advertising;
- f) tax on shows;
- g) special taxes;
- h) other local taxes.

When determining the amount of a tax, tax, or social contribution, the tax authorities may not consider a transaction that has no economic purpose, adjusting its tax effects, or may re-shape the form of a transaction / activity to reflect the economic content of the transaction / activity.

The tax authority is in fact required to give reasons for the tax decision issued as a result of the failure to consider a transaction or, as the case may be, as a result of the re-arrangement of the form of a transaction, by indicating the relevant elements in relation to the purpose and content of the transaction consideration / reincarnation, and all the means of evidence considered for that purpose¹.

Amounts from paying local taxes and taxes are paid to the local budget, often the main source of income. Based on the collection of local taxes and fees from economic agents, as well as from the population, some of the resources for financing the expenditures provided in the budget are made.

3. Conclusions

The distribution of local taxes and taxes on income and expenditure categories and then on local budget categories, if the law does not provide, is determined by the competent authorities of each county, depending on the attributions of the local authorities of the state administration and the subordination of public institutions, as well as budgetary balancing needs.

That is why local taxes and taxes are of particular economic, financial and social importance, and they are also instruments for encouraging / discouraging economic activities. The increase in the volume of taxes is achieved by increasing the number of payers, extending the tax base, and increasing the tax rates.

¹ Article 11 of the Updated Tax Code

The collection and monitoring of local taxes and fees, special taxes and the use of income in accordance with the revenue and expenditure budgets approved by the local and county councils and Bucharest municipalities are made by the specialized department of the general directorates of finance public and the financial control of the county and Bucharest municipalities, as the case may be.

References

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2. Law no. 52 of 21 January 2003 on the transparency of decision-making in public administration. Published in the Official Gazette no. 749 of 3 December 2013.
3. Law no. 215/2001 of the local public administration Published in the Official Gazette no. 123 of 20 February 2007.
4. The European Charter of Local Self-Government was adopted by the Council of Europe in Strasbourg on 15 October 1985 and ratified by Romania through Law no. 199/1997, published in the Official Gazette of Romania no. 331 / 26.11.1997.