Budgetary Fiscal Control Claim Made by Checking "Duty"

Cornelia Elena TUREAC1), Bogdan Constantin ANDRONIC1), Eugenia GRECU2), Carmen-Nicoleta HANCEA (ARDELEAN)3)

1) Universitaty Danubius Galati, Faculty of Economic Science, 3 Galati Bulevard, 800654, Galati, Romania; cornelia_tureac@yahoo.com, bandronic67@yahoo.com
2) Faculty of Management in Production and Transports, Politehnica University of Timisoara, 14 Remus Street, Timisoara, Romania; eugeniagrecu@yahoo.com
3) West University Timișoara, Faculty of Economic and Business Administration 4 Vasile Parvan Bulevard, 300223, Timisoara, Romania; carmenardelean@rdslink.ro

Abstract. Special consumption taxes or excise duties, which are widespread in countries with economic markets, are included in the sale price of goods imported or produced and sold within the country and found that basic necessities are not public consumption. Unlike value added taxes (V.A.T.), which is levied on the sale of all goods, excise duties are taxes that are levied on consumption goods that are consumed in large quantities and cannot be replaced, by buyers, with others.

Keywords: taxes, budget, authority, law, calculation

INTRODUCTION

The special consumption taxes or excise duties, which are widespread in the countries with market economies, are included in the sale price of the imported or produced goods and sold within the country and found that they are not of basic necessities in the public consumption. Unlike V.A.T., which is levied on the sale of all goods, the excise is consumption taxes that are levied on the goods that are consumed in large quantities and cannot be replaced, by the buyers with others. The excises are due to the stat budget that is in a single phase of the economic circuit, respectively by the producers or purchasers. They are calculated either on a fixed amount per unit, or on the basis of some percentage proportionate share of the selling price applied. The level of the shares used to determine the excises vary from one country to another and from one commodity to another.

MATERIALS AND METHODS

Tax audit opinion was endorsed by the tax inspection, sent through the mail service. The period specified in the notice of tax inspection to be checked is 01/01/2007 to 03/30/2009, this making part of the case study. A tax audit consists in verifying all the tax returns and/or relevant operations for budgetary claim "duty", check the organization and management of tax and accounting records and complying with the excise tax legislation.

RESULTS AND DISCUSSION

Taxpayer subject to tax audit, SC Roman Ltd. is engaged in the recovery of recyclable materials sorted C.A.E.N (classification of national economic activity) code 3832. To achieve the main object of activity, controlled company purchases recyclable metal, which sorts them and process them for further commercialization. The company is conducting these operations using LPG (liquefied petrol gas) loaded in cooker cylinders, that S.C. ROMAN S.R.L. buy them from different distributors, without payment of duty, because LPG loaded in containers containing less than 12.5 kg is presumed to be used in household consumption and for the use of legal provisions establish the duty to be 0 (zero). (Art. 167, din Law 571 from 22 December 2003 concerning Fiscal Code, up-to-date)

From 01/01/2005 to 02/28/2008 S.C. ROMAN S.R.L. carried out also one import of anthracite (excisable products).

Tax findings. Tax audit on the calculation and disclosure of budgetary claim "duty" owed to the state for the period 01/01/2005 to 12/31/2008, was made on documents that formed the basis of accounting records in accordance with the law. (Art. no. 6 from the Accountancy Law no. 82/1991, further supplemented and amended). Tax audit report, made under Art. 94 O.G. no. 92/2004, republished, regarding the Fiscal Procedure Code and GD no. 1050/2004 for approving the methodological norms for applying GO no. 92/2004, the excise tax and the differences were based on records and operational records of the taxpayer. In carrying out duties imposed by partial tax audit of the sampling procedure, which consists in selective verification of documents and material operations, which are reflected in the calculation, the emphasis and payment of tax liability "duty" owed to the general consolidated budget - Procedures and methods of tax control .(Art. 97 alin. (3), O.G. 92/2003 concerning the Code of Fiscal procedure)

Regarding the existence of contracts with suppliers and clients with whom had business relations, it was found that in the period analyzed SC ROMAN S.R.L. bought two kinds of liquefied petroleum gas (LPG loaded in containers containing less than 12.5 kg and LPG used for heating) under successive contracts concluded with SC Shell Gas Romania S.A. from Bucharest, in the period of the tax audit unrolling is ongoing the contract no. 149/08.02.2008. Also S.C. ROMAN S.R.L. imported anthracite (CN code 1000 27 01 11) from CAS Trading LTD company, from Ukraine under external contract no. 100-2007/02.08.2007. Checks carried out found that the revenue of S.C. ROMAN S.R.L. is from the sale of recyclable materials sorted by various persons, the company has sales contracts - purchase. Related expenses are recorded based on income and supporting documents as required by law.

LPG Purchases. S.C. ROMAN S.R.L. purchased under the signed contract LPG containers containing loaded under 12.5 kilograms, for which the duty is 0 (zero) if it is used for household consumption. S.C. Roman S.R.L. used quantities of LPG cylinders loaded stove purchased from 01/01/2005 to 12/30/2008 in order to achieve the main object of activity, namely the recovery of recyclable materials which they sort and process them for further marketing, so an purpose other than household. G.P.L. purchases stove loaded
cylinders were recorded in the financial - accounting of the company, log entries, 30214 in the 
debtor turnover account. Purchased quantities of LPG consumption are reflected in record 
company Management Company established by the end consumer bills each month, which is 
recorded in the accounts of the company, log output in 6021. Referring to purchases of bulk 
LPG and LPG cylinders loaded in stove, controlled by the Company, include the following:

- in accordance with Art. 176 of Law 571/2003 regarding the Fiscal Code, as amended 
and supplemented, the harmonized excise duty on LPG product was as follows:

  - LPG used for heating :
    - 01.01.2005 - 31.03.2006: 100 euro/1000 kg
  - LPG used in a household for :
    - 01.01.2005 - 31.03.2006: 0 euro/1000 kg
    - 01.04.2007 - 31.12.2008: 0 euro/1000 kg

During 01/01/2005 to 12/31/2008, S.C. Romania S.R.L. fixed monthly amount of tax 
payable amounts of the general consolidated budget, for using LPG cylinders loaded in the 
stove to achieve the main object of activity.

Purchases of anthracite. S.C. ROMAN S.R.L has imported D.V.I. (customs import 
declaration) no. I 2393/13.09.2007 the amount of 1155.90 tones anthracite (heading 
27.01.11.10) having a minimum calorific value of 7200 kcal / kg, amounting to $ 130,616.70, 
according to foreign invoice no. 84/11.09.2007, issued by the consignor of goods, SAT 
Trading LTD company from Ukraine. S.C. ROMAN S.R.L. sold to S.C. TOTAL TRANS 
S.R.L. Braila the amount of 1155.90 tones anthracite, acquired from the SAT TRADING 
LTD. from Ukraine GLTST series no. 00000201/17.09.2007 worth ROL 402,009.77 issued 
by the seller. S.C. ROMAN S.R.L. not reflected in financial records - accounting excise 
become due from the sale amount of 1155.90 tones anthracite that company acquired from 
SAT TRADING LTD. of Ukraine, by S.C. TOTAL TRANS S.R.L. Braila, which is why this 
fiscal inspection report will determine the amount of duty payable and the related delay 
increases due to state budget.

Chargeability of excise duty and the calculation. For the amount of 1155.90 tones 
anthracite (heading 27.01.11.10), imported with DVI no. I 2393/13.09.2007, excise duty is 
chargeable on 17/09/2007, which is on sale to the beneficiary SC TOTAL TRANS S.R.L. 
Braila, with invoice GLTST series no. 00000201/17.09.2007 worth ROL 402,009.77. 
Paragraph (6) of Art. 192 of Law no. 571/2003 regarding the Fiscal Code of Romania, stated 
that the duty becomes payable from the date on which the energy product is offered for sale or 
which is used as motor fuel or heating fuel. In this case, the excise becomes chargeable on the 
stove LPG cylinders loaded due to its use as fuel and for anthracite from the sale of the energy 
product. (Art.175, alin1 from Law 571/2003 concerning Fiscal Code)

"The duty is calculated in rate and is forced when the duty becomes payable. Art. 192, 
(8) from Law 571/2003 concerning Fiscal Code ,, Art. 176 of Law 571/2003 regarding the 
Fiscal Code, applicable for the period 01/01/2004 to 03/31/2005, specified in no. Fertilization. 
"13” the product "liquefied petroleum gas a rate of excise duty of 100 per 1000 kg. 

Art. 176 of Law 571/2003 regarding the Fiscal Code, applicable for the period 
12/31/2005 to 12/31/2006, the excise duty specified in that product "liquefied petroleum gas 
used as heating fuel is 1000 kg of Euro 113.50. 

Excise for the year 2005, the following exchange rates:

  RON / euro, BNR Press on 9/29/2004;
• for the period 01/01/2007 to 12/30/2007 applies leu / Euro valid from 30.06.2006: 3.5334 RON / euro, BNR Press on 9/29/2006;
Excise duty applicable for 2007 and for 2008 is:
• excise tax for 2007: 113.50 per 1000 kg;
• excise tax for the year 2008: 113.50 per 1000 kg;
Excise duty on "1 GJ (gigajoule) in the product" coal and coke, applicable for 2007 as follows:
• excise tax for 2007: 0.30 Euro / GJ for non-commercial use
• excise tax for 2007: 0.15 Euro / GJ for commercial use.

Clear that commercial use (share of 0.15 euros / GJ) of energy products are used by a trader - the final consumer of these products, or sales made by SC ROMAN S.R.L. by S.C. TOTAL TRANS S.R.L. not clearly fit into this category. In this case, the calculation of excise duty is payable for this product will take into account the level of 0.30 Euro / GJ. (Pct. 5 1.4 din H.G. no. 44/2004, updated, which allows the Methodological Norms of applying the Law no. 571/2003 concerning Fiscal Code and is the utilization by a economic operator)
For this duty is to consider the level of 0.30 Euro / GJ.
Thus, the exchange rate for the euro is as follows:

The formula used for determining the amounts of excise duty to use LPG cylinders loaded in stove / anthracite to achieve the objects by SC ROMAN S.R.L. are the following:

\[ A = Q \times K \times R \]

• "A" means the tax payable for LPG / anthracite;
• "Q" is the amount of LPG in anthracite;
• "K" is the duty united under Law 571/2003, valid within the time specified above;
• "R" represents rate RON / EUR exchange applicable for calculating excise duty within the time specified above. (pct. 1 (1) lit. „g” from H.G. nr. 44/2004- Methodological norms of applying the Law no. 571/2003 concerning Fiscal Code)

In determining the "Q" were considered:
• Quality certificate issued by the manufacturer certifying that the calorific value of anthracite imported by 7200 kcal / kg;
• The equivalent unit of measurement for energy between a calorie and a joule, according to International System of Units, is 1 calorie = 4.1868 joule.

**Overall calculation of excise duty recovered from the state budget.** The amount of excise duty recovered from the state budget, associated LPG loaded in containers containing less than 12.5 kg, for domestic consumption, with duty 0 (zero), and used by S.C. ROMAN S.R.L. to achieve the objects between 01/01/2005 to 06/30/2008, calculated based on elements taken into consideration above.

<table>
<thead>
<tr>
<th>Year</th>
<th>Duty D-lei</th>
<th>Quantity Q - tons</th>
<th>Duty value K - euro/tons</th>
<th>Exchange Rates R - lei/euro</th>
</tr>
</thead>
<tbody>
<tr>
<td>2005</td>
<td>1519.627</td>
<td>3.7</td>
<td>100</td>
<td>4.1071</td>
</tr>
<tr>
<td>2006</td>
<td>1971.551</td>
<td>4.9</td>
<td>113.50</td>
<td>3.5450</td>
</tr>
<tr>
<td>2007</td>
<td>1844.788</td>
<td>4.5</td>
<td>113.50</td>
<td>3.5334</td>
</tr>
<tr>
<td>2008</td>
<td>2205.72</td>
<td>5.5</td>
<td>113.50</td>
<td>3.5334</td>
</tr>
</tbody>
</table>

Centralization of data from text
A1 = 3.7 to x 100 euro/to x 4.1071 lei/euro = 1519,627 lei
A2 = 4.9 to x 113.50 euro/to x 3.5450 lei/euro = 1971,551 lei
A3 = 4.6 to x 113.50 euro/to x 3.5334 lei/euro = 1844,788 lei
A4 = 5.5 to x 113.50 euro/to x 3.5334 lei/euro = 2205,72 lei
Total tax recoverable: 7542 RON - related LPG

The amount of excise duty recovered from the state budget, associated with imported anthracite DVI no. I 2393/13.09.2007 in the amount of 1155.90 (heading 27.01.11.10) on amount of $ 130,616.70, and sold to SC TOTAL TRANS S.R.L. Braila, calculated according to the items under consideration is presented below:

A = Q x K x R

Amount of anthracite sold by SCROMAN Ltd. Galati by S.C. TOTAL TRANS S.R.L. Braila is 1155.90 tones under invoice no. 00000201/17.09.2007. The anthracite calorific value is of 7200 kcal / kg. To convert kcal to joules using the following formula:

1Kcal = 4186.8j

Calorific value of anthracite sold, expressed in Kcal:
Q = 7200Kcal/Kg x 1155900Kg
Q = 8322480000Kcal
Calorific value of anthracite expressed in Gj:
Q = 8322480000 Kcal x 4186.8 x 10^-9 Gj
Q = 34844,56 Gj
K = 0,30 euro/Gj
R= 3,5334 lei/euro (2007)
A = 34844,56Gj x 0,30 euro/Gj x 3,5334 lei/euro
A = 36,936 lei – Anthracite related duty
A = 7542 +36936 = 44478 lei
Total tax recoverable: 44478 lei

Presentation accessories measures

Measures accessories (consisting of increases late in the period 2005-2008, are covered in art. 119 of Ordinance 92/2003, which approves the Fiscal Procedure Code:

• under par. (1): For late payment by the borrower due date of payment obligations, due after the time delay increases;

• under par. (3) increases of late are revenues to the main claim to which it belongs. Also, measures accessories consisting of late payment penalties are governed by Art. 120 of O.G. 92/2003 approving the Fiscal Procedure Code:

• under par. (1) increases the delay is calculated for each day of delay from the day following the due date until the date of extinction due amount including. ;

• under par. (7): the increase of delay is 0.1% for each day of delay, and can be adjusted by annual budget laws.

Starting from 01.01.2006, interest and penalties for delay are replaced, according to Law no. 210/2005, with late payment penalties, set at 0.1% / day.

Calculations of amounts of delay increases represent additional budgetary debt "duty"

LPG late interest = 7542 lei x 1460 days x 0.1%/day = 11011 lei.
Late interest anthracite = 36936 lei x 403 days x 0.1%/day = 14885 lei.
Total increases = 11011 +14885 = 25896
Total late payment penalties = 25896 LEI
Overall total payment = 44478 + 25896 = 70374
GENERAL TOTAL PAYMENT = 70374 LEI
CONCLUSIONS

The company "has not calculated, highlighted and related excise LPG cylinders purchased and used in the production process as purchase invoices no mention on the seller to calculate excise duty for LPG cylinders purchased." Duty not paid for related anthracite imported since we consider the fact that SC GHCL UPSOM ROMAN S.A. were excisable product end user. Chargeability of excise duty has occurred as a result of the use of LPG cylinders controlled the company for any purpose other than household consumption. S.C. ROMAN S.R.L. 1155.90 tons of anthracite sold the SC TOTAL TRANS S.R.L. Braila, which had on 17.9.2007, the actual sale date, the end user, so as not held this position even after this date, which is why this situation cannot be applied the provisions of Art. 175 ^ 4 (1) ’s "Law No. 571/2003. In conclusion, the amounts and duty increases related delay, under the present tax auditors are owed to the state.

Summary of tax audit findings

<table>
<thead>
<tr>
<th>No. unit.</th>
<th>Name</th>
<th>Verified period / period for which tax liabilities were calculated accessories</th>
<th>Additional fixed payment duty / tax duties (lei)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>From date to date</td>
<td></td>
</tr>
<tr>
<td>1</td>
<td>Duty</td>
<td>01.01.2004 30.06.2008</td>
<td>44467</td>
</tr>
<tr>
<td>2</td>
<td>Increases</td>
<td>01.03.2004 24.10.2008</td>
<td>27825</td>
</tr>
<tr>
<td>3</td>
<td>Fines</td>
<td>* *</td>
<td>*</td>
</tr>
<tr>
<td>4</td>
<td>TOTAL</td>
<td>* *</td>
<td>72292</td>
</tr>
</tbody>
</table>

Summary of tax inspection findings will be presented in documents form to be completed "Decision imposing the additional tax payment obligations established by the tax" under Art. 109, par. (2) O.G. 92/2003 on the Procedure Fiscal Code. According to the paragraph (3) of the same article the decisions provided under the paragraph (2) shall be notified within seven days from the data of finalizing the report of fiscal inspection. According to article 111 O.G. 92/2003 regarding the Fiscal Procedure Code, updated payment deadline for duty, including related tax obligations, tax inspection is calculated depending on date of "tax decisions, as follows: until the 5th of the month Next, when the communication is in the range 1 to 15 of the month, until 20th of next month, when the communication is in the range 16 to 31 of month. In accordance with Article 105, par. (8) O.G. 92/2003 regarding the Fiscal Procedure Code, the representative SC ROMANIA S.R.L., has completed "Declaration" registered under no. 568/04.11.2008, the contents of which that have been made available to tax auditors all documents and information required to conduct tax audits, responsible for the accuracy, legality and reality and show that they were fully repaid completion of tax audits.

REFERENCES

2. *** Accounting Law no. 82/1991 with subsequent amendments and completions.
3. *** Art. 6 from the Accountancy Law no. 82/1991, further supplemented and amended.