THE USEFULNESS OF TAX AMNESTIES: CONTRADICTORY APPROACHES

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Abstract

Tax amnesty means a complex of measures related to granting to taxpayer the right to pay amounts of taxes, at which the payment terms established by legislation passed. It is not only undertaken to collect budget revenues, but it is more important for state and taxpayers to move to a new level in their relationships, when state allows for legalization of income and wealth obtained by circumventing legal rules, and taxpayers recognize the obligation to pay taxes. There are several arguments in favor of tax assets, but it can damage tax discipline and encourage tax evasion. Republic of Moldova has the experience of organizing tax amnesty, whose results are contradictory. The purpose of research was to establish essence of tax amnesty, forms of its application and its effects both in terms of international experience, and of Republic of Moldova.

Keywords: *tax amnesty, taxpayer, debt, tax, tax evasion*

JEL classification: *E62, H30*

Introduction

Either tax amnesty is a government program permanent or for a limited period, that allows taxpayers to address the tax collection agency on their own initiative and disclose inaccurate or incomplete information from previous fiscal years, or discloses materials that they did not report them during their previous relationship with the agency, without punishment or prosecution. (*Tax amnesty (b)*, n.d.)

For example, in some countries the practice of tax amnesties has become a common ome. In United States since 1982, a total of more than 80 tax amnesties were held in 44 states. Each of them lasted from a month and a half to six months. Interestingly, no benefits for amnesty are not provided. If within the indicated time limits, citizens themselves declared about the taxes that they had not previously paid, then penalties were minimal or were canceled altogether. However, taxes themselves must be paid in full. (*Как проводились ...,* n.d.)

The practice of organizing tax amnesty in the world is relatively widespread, but their modalities and results vary from one country to another. In some cases, it is reported that there is a significant additional revenue in the state budget. In other cases, there is talk of declining fiscal discovery and increasing the phenomenon of tax evasion.

It is considered one of the most effective fiscal amnesty in Ireland since 1988, as the perceived means accounted for about 2.5% of the country's GDP, which was sufficient to cover the budget deficit of that year.

In 1997, a tax amnesty was organized in India, which brought the state budget 2.5 billion USD, three times more than all combined tax amnesties held earlier in the country. One of reasons for success was that citizens were asked to pay income tax on previously hidden income at current rates, rather than those that existed at the time of receiving these incomes and were 3-4 times higher. This amnesty was accompanied by a massive advertising campaign in all media, as well as repeated reminders of ministers that such an amnesty was held the last time. (*Налоговые амнистии...*, n.d.)

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In 2007 the modest amount of 130 million USD was collected in Russia's fiscal amnesty. In this case, the program did not refer to people previously convicted of tax offenses. Nevertheless, in 2018 a new tax amnesty was announced.

The opinions of experts on fiscal amnesty are also different, sometimes even opposite.

Hence, the hypothesis of existence of certain conditions in which tax amnesties may be useful or in which they are contraindicated.

At present, the opportunity of fiscal amnesty in the hope of solving problems of tax evasion and shadow economy is discussed, which implies the need to international experience study in this field in order to apply optimal solutions in Republic of Moldova.

Description of the problem

Tax amnesty is a limited opportunity for a certain group of taxpayers to pay a certain amount in exchange for forgiving a tax obligation (including interest and penalties) for an earlier tax period and without fear of prosecution. Usually, this expires when an authority starts a tax audit of tax previously owed. In some cases, legislation providing for amnesty also imposes more severe sanctions on persons eligible for amnesty but who do not accept it. Tax amnesty is one of voluntary compliance strategies to increase the tax base and tax revenues. It is partly different from other voluntary compliance strategies, if tax amnesty usually discourages taxpayers' liability. (*Tax amnesty… (a)*, n.d.)

Essentially, fiscal amnesty is a law issued by central authorities to forgive tax liabilities in previous years to taxpayers. Through this measure, Government provides an advantage to taxpayers, allowing them to correct mistakes or omissions in tax statements without fear of legal action. It is usually set for a fixed period and may be linked to outstanding tax liabilities from one or more annual periods. If taxpayer fails to cancel the debt by using amnesty, and then evasion is discovered, severe punishments and sanctions apply. (*Tax evasion..., n.d.*)

In some cases, tax amnesty is combined with the amnesty of capital, which means the legalization of money in the form established by state. As a rule, a mandatory condition for amnesty of capital is the payment of a certain tax and demand for the partial or total bringing of capital into country. (*Амнистия капиталов, n.d.)*

As a rule, tax amnesty has the following characteristics (*Налоговая амнистия*, n.d.):

- Applying once, meaning that state grants the right to legalize earnings once in a limited time.
- There must be objective premises for fiscal amnesty. Usually, it is about fiscal system's imperfection during the fiscal amnesty.
- Legalization of property for which tax is paid and refusal of state to lawfully persecute offenders.

Basic goals of tax amnesty as a rule are as follows (Monkov, 2016):

- Replenishment of state budget on account of funds received as a result of declaring hidden or late payments of taxes;
- Financial stabilization of bad-platinum debtors, ensuring, in some cases, the passage of funds from shadow sector of economy into legal one;
- Capital repatriation of foreign capital in the real sector of economy;
- Creating legal bases and mechanisms in state relations with taxpayers;
- Prophylaxis of tax violations and offenses.

At the beginning of the 21st century, authorities of several countries have declared the success of tax amnesties.

In 2007, in the UK, the first tax amnesty was announced, aimed at collecting unpaid taxes from taxpayers, who did not declare income received in offshore zones. As a result of this amnesty GBP 400 million was contributed to the state budget.

The second tax amnesty was announced in the UK from September 1, 2009 to March 12, 2010, in accordance with terms of which owners of offshore accounts could declare their income by paying a 10% penalty. In this framework of amnesty was calculated to collect 2 billion pounds sterling.

Italy organized a tax amnesty in 2001-2002 aimed at countering capital outflows and tax evasion. Applicants were required to pay 2.5% of the declared value of the property or to purchase Italian securities in an amount equal to 12% of the value of the hidden property. As a result, in the first two months, capital of EUR 61 billion was returned, tax collections amounted to EUR 24 billion and tax on returned assets brought EUR 1.4 billion to budget.
In 2009, the fiscal amnesty to a further declaration of Italian citizens' incomes illegally retained abroad for amount of 80 billion EUR, resulting in tax revenue of 4 billion EUR.

Fiscal amnesty organized in South Africa from October 2016 to August 2017 contributed to collection of ZAR 1.1 billion with 2000 involved participants.

Fiscal amnesty in Argentina in 2016 is considered effective as it contributed to legalization of money for USD 90 billion, being collected in state budget in the amount of USD 5.2 billion.

In 2010, a fiscal amnesty for millions of Greek citizens was carried out in Greece by paying only 55% of outstanding debts.

In other countries, tax amnesty purposes have been partially achieved.

The tax amnesty announced in Germany in 2004-2005 brought EUR 900 million to federal budget, although Ministry of Finance of this country hoped to receive EUR 5 billion. To this end, Germans were asked to return money from secret foreign accounts, paying a single tax on the amount so legalized upon release from further legal prosecution.

In Belgium, in 2004, it was officially declared that citizens who took out the capital abroad, who had bank accounts abroad, could return these money in the country without any sanctions until the end of year, paying 6% if funds were invested in shares of Belgian companies for a minimum of three years and 9% of repatriated amounts. The amount of repaid capital amounted to only EUR 1 billion (or 6% of the planned amount).

In addition, experts as unsuccessful consider some tax amnesties. These include, for example, those organized in Argentina in 1982 and 1982 and 1986 in France.

In 2004, United States was given the opportunity for corporations to repatriate taxable money, with a return of more than USD 360 billion. However, experts, evaluating this amnesty, noted that there is no evidence that this amnesty added at least one job in the US economy. (Abbyasova, 2016)

The first tax amnesty in Republic of Moldova (2007)

In 2007, the first fiscal amnesty was defeated in Moldova, where company tax debts were canceled, fines and penalties amounting to MDL 4.4 billion in relation to budgetary system according to situation as of 1 January 2007 and unpaid May 11, 2007.
This initiative of central authorities of Republic of Moldova was complex and was based on three pillars (Berbeca, Tăbârță, 2016):

1) Capital legalization program - state has proposed to legalize the capital or value of capital declared amnesty in return for payment to state budget of 5% of this amount.

2) Fiscal amnesty itself related to cancellation of mentioned debt of MDL 4.32 billion – MDL 2.16 billion as basic debt and MDL 2.18 billion as accumulated amount of the penalties.

3) Reform of tax system for legal persons. Revenues of enterprises reinvested for development was taxed at zero. At the same time, the tax rate was maintained at 15% for outputs from production process.

Results of this initiative of central authorities were very modest (Berbeca, Tăbârță, 2016):

- The volume of estimated capital for legalization was about USD 1 billion. Actually, assets and money were legalized in a total amount of MDL 360 million (which amounted to USD 35 million) on December 30, 2008. Respectively, revenues to state budget were about MDL 18 million after applying legalization fee (5%).
- Zero rate on reinvested tax had a negative influence on revenues of local public authorities, which became dependent on transfers from state budget.

- State lost about MDL 4.3 billion following the cancellation of mentioned debts. State-owned enterprises (which created a large part of these debts) continued to generate losses due to inefficiency. The amount of debts in 2010, one year after their cancellation, amounted to about MDL 1.2 billion.

Preparing for a new fiscal amnesty in the Republic of Moldova

In 2016 central Moldovan authorities instituted a six-month moratorium on controls performed by competent authorities.

In the opinion of expert Gheorghe Costandachi, negative consequences were very serious (Costandachi, 2017):

1. Reducing revenues of state budget in the summer of 2016 by MDL 2066 million, which represents almost 8% of budget volume.
2. During the operation of moratorium, there were hundreds and thousands of violations of fiscal legislation.
3. Increase in fiscal year 2016 of fiscal debt from 1 billion MDL to MDL 1.7 billion, ie by 70%.
4. During the entire period of moratorium, social security budget and medical insurance fund had a liquidity shortage.
5. Business actors have pointed out trapping by those who commit tax evasion, smuggle and counterfeit goods and are protected by various governing clans.

In December 2016, Moldovan Parliament approved in first reading the draft law on capital liberalization and fiscal stimulus, which was composed of 2 basic components. The first one was to liberalize capital. Any individual (a citizen of Republic of Moldova or his legal representative (parent, adopter, guardian, curator) could declare his assets (eg money, real estate, shares, securities, road transport), which were hitherto registered with other persons (eg relatives, interjects, etc.), or unregistered at all, or could re-evaluate the assets declared at a lower value, legal protection being guaranteed (state can not verify the origin of these and not to be able to impose sanctions on public officials for illicit acquisition or non-declaration of such property) in return for a 2% tax on value of assets. The second component was tax incentive: cancellation of all tax penalties for natural and legal persons in payment of due amount.

In essence, the law project provided for a capital amnesty and a quasi-fiscal amnesty (as it only targeted the tax penalties, not the basic debt).

Civil society and experts for compromising the rule of law and fighting corruption, legalizing money laundering and tax evasion, eroding the image of banking sector and cooling relations with development partners, have harshly criticized this document. As a result, the draft law was withdrawn from Parliament.

In December 2017, central authorities of Republic of Moldova submitted a new initiative on decriminalization of economic activity, which provided for a series of amendments to legislation, the issuing of criminal liability for a series of offenses specified in Criminal Code, including offenses related to lending and bank management, securities market, breach of shareholders' rights or obstruction of banking supervision. The release was to be applied, if the offense was committed for the first time, person repaired the damage and paid in state budget twice the maximum amount of fine provided for by Criminal Code for the offense.

According to experts, this legislative change would send out dangerous signals for the future about accepting similar illegal behaviors and de facto provided criminal facilities to scammers involved in bank fraud or obstruction of banking supervision.

Essentially, to a certain extent, it was a transformed form of fiscal amnesty, which could stimulate tax evasion.

The second fiscal amnesty in the Republic of Moldova (2018)

In July 2018, Parliament of Republic of Moldova approved the amnesty of capital to bring money from shadow economy to real economy, which stipulated that individuals can voluntarily declare undeclared goods by indicating the source of income and paying 3% (which was then increased to 6%) tax on the value of liberalized goods until December 10, 2018. Voluntary declaration of assets does not refer to certain civil servants who have held public positions after 2009.

However, so-called "fiscal stimulus" in the form of cancellation of fines and penalties for late payment is very important in the case of paying taxes and duties until 20 December 2018. The total amount of debts to be canceled is MDL 11.2 billion, ie over 20% of GDP and over 7% of the GDP of the Republic of Moldova in 2017.
Out of this amount, MDL 9.03 billion are due to special records, which are temporarily irrecoverable or with a low degree of recovery, including penalties and fines not paid by legal and physical persons suspected of tax evasion. The special record included tax liabilities of 2578 taxpayers, ie about MDL 3.5 million per company.

Methodology and data sources

In order to conduct the research on tax amnesties, information from official information sources, public institutions' reports, as well as opinions, results of analysis carried out by local experts were studied. Also, the wider analysis of context of triggering each of tax amnesties in Republic of Moldova was carried out. As a result, an integrated image was created, which allowed conclusions to be drawn on specific national aspects of tax amnesties usefulness.

Results obtained

The carried-out research indicates the multilateral nature of tax amnesty usefulness, which can be examined from a fundamental, technical and essential point of view.

In a fundamental approach, the effectiveness of tax amnesty can be seen as a predominance of its advantages over its shortcomings.

Analyzing the experience of different countries allows highlighting some positive aspects of fiscal amnesty (Luchian, Tepordei, 2017):

- Obtaining resources for state budget from the collection of hidden taxes or with expired payment deadline.
- A certain economy is obtained from funds that would be spent by public authorities for undertaking fiscal and other control measures related to the conduct of investigations and prosecution.
- It is possible to broaden the tax base in account of oppressors removing from the shadow sector of economy into legal economic circuit. It is assumed that by getting the chance to get rid of old debts, taxpayer will not want to buy new ones and pay taxes correctly and on time.
- If taxpayer obtains the possibility of legalizing his assets accumulated outside the country, based on conditions of amnesty, it is possible to increase the volume of investments on the territory of country on the account of repaired means.
- Tax amnesty can be of prophylactic importance. Given that the discovery of tax violations is fully real and subsequent punishment is unavoidable, forgiving of tax violations in return for debt repayment to state contributes to formation of a favorable business climate in the country and, in particular, to creation of trust relationships between taxpayers and state.

Research has shown that the effects of tax amnesty are spread over a medium term, after which they are significantly reduced.

For example, in Russia following fiscal amnesty, an increase in tax collections was observed in 2010 (+ 22% compared to 2009) and in 2011 (+ 26% compared to 2010). Then there were problems. In 2012, tax revenue growth was only 13%. (Aldamjarov, 2014)

However, at the same time, tax amnesties have a number of negative aspects:

- It is a violation of fundamental principle of fiscal equity, expressed through equality of all before the law and obligation to pay taxes.
- It is psychological effect expressed by mistaken perception of situation by taxpayers, as state, forgiving the conscious violation of tax legislation, does not have serious capacities to ensure the collection of taxes.

- Long-term fiscal and capital amnesty results in an even greater indebtedness of countries due to reduced tax collection because of expectation of population, economic agents for future amnesty.

When assessing the effectiveness of fiscal amnesty, it is important to take account of its type. The study made it possible to group tax amnesties into three basic types:

- *Tax amnesties for regulatory purposes*. The amnesty of this type is carried out in situations when there are serious divergences in taxpayers' views regarding the necessity and way of paying certain taxes to the opinion of tax authorities based on discrepancies and gaps in existing legislation. Of course, the success of this amnesty is related to removal of these fiscal dysfunctions;
- *Tax amnesties for restoring tax discipline*. This type of tax amnesty in most cases is applied in the situation where central authorities of country try to restore their relations with taxpayers from new positions. As an example, US tax amnesty may be presented, when Swiss bank UBS sent to US tax authorities information on accounts of 4450 US citizens. The amnesty consisted in filing a taxpayer's declaration of funds in foreign bank accounts and pay a fine of 20 percent of maximum amount recorded in his account since 2003 plus taxes and penalties. Thus, the total amount of payments could reach 60-70 percent of the amount of funds in the accounts. The result of the amnesty was the receipt of declarations of accounts of Americans in 70 countries of the world and receiving the corresponding payments;
- *Tax amnesties for other purposes*. These amnesties are organized in the context of activities with special purposes, such as fighting the shadow economy.

The lowest level of efficiency (which is in fact predictable) is related to amnesty organized as result of political clientelism, when central authorities exempt certain privileged categories of taxpayers from paying tax by later forgiving these tax frauds in exchange for fidelity and political support.

International experience allows us to highlight conditions in which tax amnesty can be effective (Abyasova, 2016):

- Serious guarantees of lack of punishment;
- Keeping information confidential;
- Applying amnesty once;
- Non-confiscatory character;
- Developing a broad campaign of explanation and propaganda;
- Combining amnesty with the real threat of punishment in the event of subsequent tax concealment.

The efficiency of tax amnesty also largely depends on general situation in the economy as well as state of mind in society.

In order to create real incentives for return of entrepreneurs from shadow to legal, it is important to have a clear tax system and tax burden must be bearable. In addition, an efficient tax service is necessary, which is primarily able to detect bad payers and to hold them accountable, and secondly to cooperate with honest taxpayers to ensure their consultation and other assistance instead of creating bureaucratic problems. (Roche & Duffay, 1999)

In order to ensure the amnesty of capital, in the opinion of many specialists, this measure must be carried out under certain conditions, such as creating legislation, providing access to banking information, establishing serious liability for non-declaration of funds on bank accounts abroad, increasing investment attractiveness, reducing tax burden combined with compliance with tax equity rules. It is also important for the country's international authority to work with interesting countries for bad payers. (Zaharov, 2014)

An important catalyst for fiscal amnesty can be a tightening of punishments for tax evasion, especially for taxpayers who have refused to accept central government offerings.

For example, one of succes factors of tax amnesty in Italy in 2001-2002 consisted in tightening the liability for violating tax laws: before the amnesty, penalty for hiding capital or property ranged from EUR 250 to EUR 2000, after - from 5% to 25% of hidden funds plus confiscation of property for the same amount.

It is important that if tax amnesty is repeated more often, it is more destructive for tax discipline, because at some taxpayers cease to pay taxes while waiting for the next amnesty.

In addition, any tax amnesty can have multiple side effects. For example, a tax amnesty in Italy in 2009 provoked the aggravation of this country's relations with Switzerland due to the massive withdrawal of money from Swiss banks by Italian citizens. Just from Credit Swisse were made out CHF 15 billion.

Similarly, fiscal amnesty may worsen the political situation in the country.

The utility of the fiscal amnesty in the Republic of Moldova in 2018 is only very problematic, being organized in very uncomfortable conditions.

The level of tax collection is relatively low. Tax evasion accounts for one third of GDP, equivalent to ROL 40 billion or over EUR 2 billion. In 2018 showed that the tax gap in 2016 constituted 7% of GDP, which corresponded to the volume of 9.5 billion lei.

However, proportions of combating tax evasion are very modest in scale. In 2015, the State Tax Service notified the law enforcement agencies in 438 cases related to tax evasion. Of these, criminal cases were initiated in 128 cases, accumulating over MDL 3 million to the national public budget. In the year 2016, 6710 lawsuits were drawn up in contravention of MDL 7.6 million.

Corruption is a catalyst for tax evasion. Annual losses to Republic of Moldova from corruption in 2016 amounted to between 8% and 13% of GDP or about MDL 11.8-17.7 billion. Direct losses of public finance system (or respective annual income of corrupt individuals) in the year 2016 constituted 1.1% -2% of GDP or MDL 1.5-2.7 billion. Thus, direct losses due to corruption constituted 3.1% - 5.6% of National Public Budget. [Budianschi, 2017]
At the same time, the Association Agreement between European Union and Republic of Moldova was signed in 2014. As a result, Republic of Moldova has assumed substantial obligations in the field of public finance management. In order to benefit from provisions of this Agreement, it is necessary to make a series of systemic adjustments, including in budgetary and fiscal matters, that is to say, provisions of Titles IV and, respectively, Chapters 7 and 8, to public finance management in the area of budgetary policy, internal control, financial inspection, external audit, as well as cooperation on budgetary and accounting systems.

Another important factor is the existence of shadow economy. His share has increased from 20% in GDP in 2007 to 28% in 2013 and 30% in 2014.

Consequences of recent tax amnesty in Republic of Moldova are very uncertain.

These actions of central authorities of Republic of Moldova have been harshly criticized by many local and international specialists, considering that adopted measures will increase the regressive character of fiscal system, reduce the degree of fiscal compliance, expose fiscal-fiscal system to significant risks and will undermine efforts to combat corruption.

Tax amnesty had a negative effect on business perception by businesspersons in Republic of Moldova and was demoralizing for honest taxpayers.

Along with capital amnesty, it has become one of the factors worsening the relationship with development partners. IMF and the World Bank Group said they were worried about the consequences of the organized fiscal amnesty. According to the authorities of European Union, Moldova has violated provisions of Association Agreement through these activities.

In addition, we consider very serious opinions expressed regarding the contribution of fiscal amnesty and capital amnesty to transformation of Republic of Moldova into a money-laundering center. If central authorities of country fail to produce evidence that would prove the opposite, international sanctions may become inevitable.

Conclusions

Tax amnesties can be considered as instruments for improving the functioning of the country's tax system. However, the effciency of its application is expressed by a range of its advantages and disadvantages and depends on a complex of fundamental factors.

It is of great importance the dependence of tax amnesty on compliance with rules and principles of tax amnesties organization, as well as fight against shadow economy and corruption, improvement of the taxpayers' culture and tax discipline and so on.

Tax amnesty can be effective as long as it is rather an exception than a rule. With increasing predictability, tax amnesties may have a number of adverse effects.

The fiscal amnesty carried out in Republic of Moldova, contrary to expected beneficial effects of central authorities, had very modest results. In addition, the one unfolded recently will soon have negative effects in the near and long term perspective.

Future Directions to Be Approached

The study of addressed topic in the paper is to be continued by results monitoring of current tax amnesty in Republic of Moldova.

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