

ASPECTS CONCERNING CORPORATE TAXATION IN THE EUROPEAN UNION

Prof. Gheorghe MATEI, PhD
University of Craiova
Lect. Daniela PÎRVU, PhD
University of Pitești

Introduction

The public authorities' traditional objective when building a tax system is represented by the maximization of public revenues while minimizing distortions concerning the size and location of investments. In the last few years, corporate taxation generates significant challenges for governments, taking into account the importance of the stimulation of entrepreneurial activity, and especially the activity of the companies, on one hand, and that of raising the financial resources necessary in order to fulfill the common interest necessities, on the other hand.

The activity of the companies represents a major interest factor for the economies of all the states due to the economic and social effects generated by it: creating new jobs, increasing labor productivity, increasing product competitiveness, multiplying the income sources of income transposed into the increase in the budgetary incomes. On the background of economic globalization, companies have more opportunities to find the best production locations, function of the conditions offered by the respective markets. The companies performing international activities, especially, constitute one of the important factors of the development of national economies, as they have the possibility to generate significant changes both in the size, dynamics and structure of economic relations, as well as in most of the areas of the political and social life. Fiscal conditions influence the decisions for the localization of

investments made by multinational companies and flows of capital, and consequently, the policy of each state in the area of the company income taxation should constitute the object of a very careful analysis.

On the other hand, the incomes obtained by the collection of the corporate tax represent an important financing source for the supply of public goods and services. This aspect creates a political connection between corporate income taxation and social rights. The level of corporate income taxes may create the economic conditions in which employees could increase their own incomes and this increase will contribute to the financing of public necessities.

Starting with the years 1980-1990, in almost all the countries in the world, reforms in the taxation of company incomes were initiated with the purpose of creating the most attractive possible conditions for possible investors. This fact implied not only the creation of fiscal competitiveness between the countries of the world, but also the adjustment of the structure of public expenditure to the preferences of corporations (Menéndez, 2004).

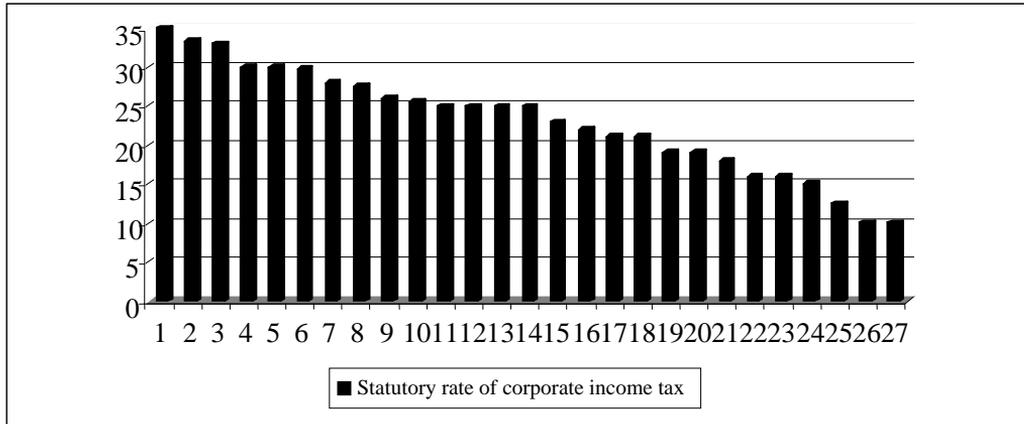
Aspects concerning corporate taxation in the European Union

The existence of significant differences among the corporate tax rates in the European Union (from 10% in Cyprus and Bulgaria, up to 35% in Malta), stimulates multinational companies to use a series of fiscal optimization strategies (the transfer of

profits in the areas with a low level of taxation or the creation of financial departments in tax heavens to finance investments by credit lines within the group) that generate income loss at the

level of the countries with a high level of taxation and disadvantages to small and medium companies that take part into the same competitive market.

Figure no. 1. Statutory rate of corporate income tax



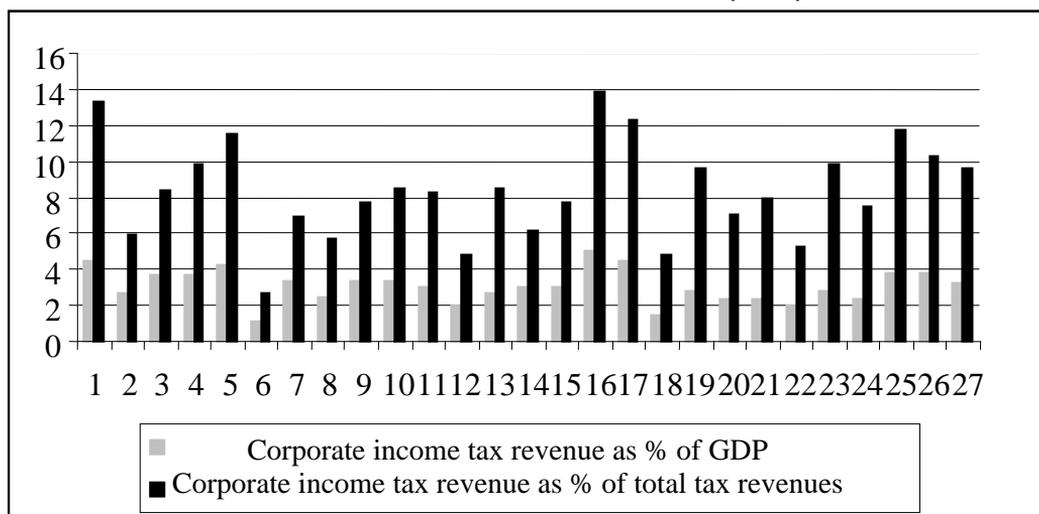
Legend: 1-Malta, 2-France, 3-Belgium, 4-United Kingdom, 5-Spain, 6-Germany, 7-Sweden, 8-Italy, 9-Finland, 10-Netherlands, 11-Portugal, 12-Austria, 13-Greece, 14-Denmark, 15-Slovenia, 16-Luxembourg, 17-Czech Republic, 18-Estonia, 19-Slovakia, 20-Poland, 21-Lithuania, 22-Hungary, 23-România, 24-Latvia, 25-Ireland, 26-Cyprus, 27-Bulgaria

Source: *Taxes in Europe Database* (<http://ec.europa.eu>)

In the countries in the Central and Eastern Europe, lower corporate tax rates can be found, as compared to the western countries with developed economies. The main reason of the governments of the countries that chose a low company income tax rate is represented by the stimulation of the business environment. The low corporate tax rate level is not associated to a low level of public revenues obtained through the collection of this tax. An analysis of the corporate tax in the countries of the European Union allows for the observation of important differences

among the levels of revenues from the respective taxes, as percentage in GDP and as percentage in the total tax revenues, differences that are not generated by the level of the corporate tax rate. For example, in countries such as Ireland, Cyprus and Bulgaria that apply the lowest corporate tax rates, the corporate tax revenues as percentages in GDP and as percentages in the total tax revenues are higher than in countries such as France, Germany or Italy, in which the corporate tax rate more than 10 percentage points higher.

Figure no. 2. Corporate income tax revenue as % of GDP and Corporate income tax revenue as % of total tax revenues (2006)



Legend: 1-Malta, 2-France, 3-Belgium, 4-United Kingdom, 5-Spain, 6-Germany, 7-Sweden, 8-Italy, 9-Finland, 10-Netherlands, 11-Portugal, 12-Austria, 13-Greece, 14-Denmark, 15-Slovenia, 16-Luxembourg, 17-Czech Republic, 18-Estonia, 19-Slovakia, 20-Poland, 21-Lithuania, 22-Hungary, 23-România, 24-Latvia, 25-Ireland, 26-Cyprus, 27-Bulgaria

Source: Taxes in Europe Database (<http://ec.europa.eu>)

The differences noticed by pointing out the main aspects concerning the taxation of company incomes in the European Union are partly generated by the legislative provisions concerning deductions, reduction, tax credits, and exceptions.

In Austria, deductible items are: salaries including employee fringe benefits, depreciation, interests on loans or debts to third parties, royalties, financing cost relation to acquisition of participations. A group-companies taxation system (from 2005) enables the pooling of profits and losses of group members which are resident in Austria. Further more it is also possible to use losses of foreign subsidiaries of the Austrian group companies. Thus, losses from non-resident subsidiaries can be computed against group income under the condition that they are recovered when offset abroad. The basic requirements for setting up a tax group

are maintenance of the group for at least three years. Corporations subject to unlimited tax liability have to pay minimum corporate income tax regardless if profitable or not. This minimum corporate income tax is to €3,500 per annum for joint stock companies and to €5,452/ joint stock, if the taxpayer is a bank or insurance company.

In Belgium, participation exemption can be granted for dividends or sums obtained through the distribution of company assets or the repurchase by a company of its own shares. Decreases in the income tax or granting tax credits are provided for the investments made with the purpose of protecting the environment and those made in the research & development activity. Losses from previous tax periods are deductible without any time limit.

In Bulgaria, constitute exemptions:

- the licensed special purpose investment companies;
 - transactions with shares in public companies, marketable rights attaching to shares in public companies and units of collective investment schemes in transactions effected on a regulated Bulgarian securities market.

The companies who investing in regions with high unemployment rate shall be allowed to retain 100 per cent of the corporation tax due there from on the manufacturing activities carried on thereby. Any social and health insurance fund and any public-financed scientific research enterprise shall be allowed to retain 50 per cent of the corporation tax. Agricultural producers which are a legal person shall be allowed to retain 60 per cent of the corporation tax on unprocessed plant and animal produce, excluding floriculture. Also, cooperatives

which are affiliated to a national cooperative union, shall be allowed to retain 60 per cent of the corporation tax due there from for the period ending on the 31st day of December 2010.

In Cyprus, following deductions allowed:

- ordinary annual contributions paid by an employer;
- bad debts;
- expenditure for scientific research and patents rights;
- contributions made for educational, cultural or other charitable purposes, etc.

In France, for the turnover plus financial income of the last fiscal year, is levied the minimum annual corporation tax who is deductible like other costs without a limit of time.

Tax grid is present thus:

Less than € 400,000	€ 0
€ 400 000 – € 750 000	€ 1 300
€ 750 000 – € 1 500 000	€ 2 000
€ 1 500 000 – € 7 500 000	€ 3 750
€ 7 500 000 – € 15 000 000	€ 16 250
€ 15 000 000 – € 75 000 000	€ 20 500
€ 75 000 000 – € 500 000 000	€ 32 750
Above € 500 000 000	€ 110 000

In Germany, intercompany dividends and capital gains are tax exempt.

In Greece, the income as set out below is free of tax:

- profits from the operation of ships under the Greek flag by Greek companies;
- subject to reciprocity, profits made in Greece by foreign enterprises from the operation of ships and aircraft;
- increments on building land sold by non-profit-making building cooperatives, if used on public projects aimed etc.

In Ireland, Credit Unions, lotteries and certain State-controlled bodies, charitable companies promoting amateur or athletic games or sports, trade unions are exempt from corporation tax on income.

In Italy, are exempt: income from buildings used for worship, income from land and buildings belonging to local public bodies and reserved for communal use. Income arising from commercial activities carried on in connection with parties' political campaigns and incomes of agricultural cooperatives.

In Latvia, corporate income tax shall not be paid by institutions financed from the State budget or from local government budgets and shall not be paid also by the individual (family) enterprises as do not have to submit annual accounts. In company's case, tax may be reduced by an amount equivalent to the tax paid in foreign countries. Also, tax can be reduced by 85 per cent of amounts donated to budget institutions, societies and foundations registered in

the Republic of Latvia and religious organizations. The total tax rebate can not exceed 20 per cent of the total amount of tax. The tax rebate for undertakings carrying out agricultural activities is 10 lats for each hectare of usable agricultural land.

In Lithuania, non-taxable incomes are:

- insurance benefits received; that part of insurance premiums reimbursed and insurance benefits which is in excess of insurance premiums deducted from income;

- income received by a bankrupt entity from the sale of assets;

- investment income of variable capital investment companies, except for dividends and other distributed profits;

- income received by health care institutions from services financed from the Compulsory Health Insurance Fund;

- income resulting from the revaluation of assets and obligations, except for income resulting from the revaluation of derivative financial instruments acquired to cover the risks;

- seaport and airport charges, air navigation charges and funds collected from the lease of seaport land;

- compensations for damage received by an entity.

In Luxembourg, corporate income tax shall not be paid by corporate bodies whose objectives are religious, charitable or of general interest, by establishments supplying water, gas and electricity and belonging to the State or municipalities, national lottery, independent employers' pension, holding companies, exclusively occupational associations and agricultural cooperatives in which machines are used in common and by which the agricultural produce of the members is processed or sold.

In Portugal, capital gains are not taxed separately but are included in the ordinary income. Only 50 % of net capital gains derived from the sale of tangibles and shares are subject to tax, if the proceeds are reinvested under certain conditions laid down by the law. Ordinary

losses can be carried forward for six years.

Dividends received are fully deductible for tax if derived from a participation of at least 10% of the paying company's capital (or if the acquisition cost of the participation was at least 20 million euro) which was held for an uninterrupted period of one year prior to the distribution. The profits from which the distribution was made must have been subject to effective taxation. When these conditions are not met, only 50% of the dividends are exempt. In both cases, the regulate applies only if the paying company is resident in Portugal or in another EU Member State.

In Romania, the following fiscal incentives are granted at the calculation of the taxable profit for activities of research & development:

- a) additional deduction of 20 % of the eligible expenses for these activities, at the calculation of the taxable profit; the additional deduction is calculated quarterly /annually;

- b) the application of the accelerated depreciation method for apparatuses and equipment dedicated to the research & development activities.

The annual loss, evaluated through the tax return is recovered from the taxable income obtained in the next 5 consecutive years. Losses must be recovered in the order of their recording, at each corporate tax payment term, in compliance with the provisions applicable in the year when they were recorded. As an exception, the annual tax loss incurred starting with 2009 evaluated through the corporate tax return must be recovered from the taxable profit obtained in the next 7 consecutive years. Losses must be recovered in the order of their recording, at each corporate tax payment term, in compliance with the provisions applicable in the year when they were recorded.

In Slovenia, non-recognized expenses are:

- expenses to cover losses from previous years;

- costs for forcible collection of taxes or other levies;
- penalties pronounced by a competent authority;
- deductible VAT from previous years;
- interests paid on taxes or other levies not paid on time;
- interests paid on loans received from persons whose principal office of residence is in a country outside EU with nominal level of tax on profits less than 12,5%;
- donations.

Expenses linked to depreciation may not exceed the maximum annual depreciation rates: 3% (building projects including investment property), 6% (parts of building projects including parts of investment property), 20% (equipment, vehicles and machinery, 33,3% (parts of equipment and equipment for research), 50% (computers and computer equipment), 10% (long-term plantations).

The taxpayer may claim a reduction in taxable base of 20% of the amount invested in internal R&D activities and purchase of R&D services but not exceeding the amount of the taxable base. If a taxpayer employs disabled persons may claim a reduction in the taxable base in the amount of 50% of the salaries of such persons but not exceeding the amount of the taxable base. If a taxpayer by a teaching agreement employs an apprentice or a student for performing practical work in a professional education, may claim a reduction in the taxable base in the amount of the salary paid, but not exceeding 20% of the average monthly salary in Slovenia.

A taxpayer employer that finances a pension plan of collective insurance may claim a reduction in the taxable base for premiums for voluntary supplementary pension insurance paid for the benefit of insured employees to a pension plan provider with a principal office in Slovenia or in an EU member state but not exceeding an amount equal to 24% of the compulsory contributions for pension and disability insurance for

an insured employee (no more than 2,390€ annually) and not exceeding the amount of the taxable base for the tax period.

A taxpayer may claim a reduction in the taxable base for amounts paid for humanitarian, charitable, scientific, educational, medical, cultural etc for payments made to residents of Slovenia or residents who are state members of EU and up to an amount equivalent to 0,3% of the taxpayer's taxable revenue in the current tax period. A taxpayer may also claim a reduction in the taxable base for amounts paid to political parties and representative trade unions up to an amount equivalent to three times the average monthly salary per employee of the taxpayer in the current tax period. The cumulative total of allowances may not exceed the amount of the taxable base.

In Spain is allowed to avoid domestic and international double taxation. Dividends or profits from shares derived from other corporate resident taxpayers qualify for a 50 % deduction or for a 100 % deduction if the receiving company has owned directly or indirectly at least 5 % of the capital of the company distributing dividends without interruption for at least one year prior to distribution. Dividends and other distributions derived from non-resident companies are included in the taxable income, but a credit is granted for any withholding tax paid abroad on the dividends.

Until 31/12/2010 there are also other tax credits:

- for research and development work, a deduction equivalent to 30 % of the relevant expenditure;
- for fostering technological innovation activities, a deduction equivalent up to 15 % of the relevant expenditures carried out in these activities;
- for staff training costs;
- for investments in cultural goods, film productions and book publishing;
- a deduction equivalent to 10 % of the investments and expenses incurred

in improving Internet presence and the development of E-Commerce processes;

- 10 % of the investments made in global navigation and monitoring satellite aid systems applied to industrial and commercial road transport vehicles;

- a 10 % deduction for investments in tangible assets intended for environmental improvement and pollution control;

- a 10 % deduction for investments made in tangible assets addressed to the use of renewable energy sources;

- 10 % of the company contributions to Pension Plans.

characterization of the pressure of taxation on companies, unless all the aspects concerning the method used to assess the taxable income are taken into account (deductions, reductions, tax credits and exceptions). In the countries of the European Union, the number and types of various used fiscal advantages generates significant differences in the pressure of taxes on legal entities. For this reason, it is important to consider the effective tax rate that provides a much more accurate image of corporate taxation, within an analysis carried out at the international level concerning corporate taxes.

Conclusions

The level of the statutory corporate tax rate is not relevant for the

REFERENCES

Agustín José Menéndez	<i>The taxation of corporate income in the European Union</i> , Columbia Journal of European Law, no. 10, 2004;
Michael P. Devereux	<i>The corporate income tax: international trends and options for fundamental reform</i> , Working Party No. 2 of the Committee on Fiscal Affairs of the OECD, 2005;
Ruud A. de Mooij, Gaëtan Nicodème	<i>Corporate Tax Policy</i> , Entrepreneurship and Incorporation in the EU, Tinbergen Institute Discussion Paper 030/3, 2007;
***	<i>Taxes in Europe Database</i> (http://ec.europa.eu).