

THE TAX ON LEGAL PERSONS' NON-RESIDENTIAL BUILDINGS BETWEEN THE TAX CODE AND REALITY. CASE STUDY

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Abstract

According to the legislation, the buildings, both residential and non-residential, owned by natural and/or legal persons are subject to tax and a part of those taxes provides a share of the budget of the Local Council within the taxation jurisdiction of which the respective buildings are located.

The legislation, in this case, the Taxation Code, suffered important modifications in 2015 which came into force as of 2016 and stipulates that the taxation of buildings is to be done on the basis of a percentage share applied to the value of those buildings obtained subsequent to assessments made by the ANEVAR assessors. The percentage share is stipulated by a value interval and it is applied according to the resolutions of the Local Councils, and it may be higher or lower, in accordance with the economic, social, etc, interests of the respective communities.

In our scientific approach we have made a comparison concerning the percentage share applied by the Mayors' offices of the communities, cities and municipalities of the Cluj County and we have also related to their populations. At the same time, we performed a brief comparative study of the city of Cluj-Napoca and the surrounding localities considered "dormitories" of the city.

A determining element in our scientific approach was that of the resources which may be generated locally by each Mayor's Office to provide from own forces the budget or at least a value as great as possible of it.

Keywords: *tax, non-residential buildings, Tax Code*

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1. Introduction

Taxes are known since old times but they were preceded by charges. Thus, the first charge paid by the people was, as it is assumed, the protection charge which was paid by the members of a tribe to the person who provided them protection both against the members of other tribes as well as against animals.

In time, along with the social development of those tribes, new structures and services appeared which needed certain amounts of money to function. At the same time, those who started gaining properties needed to pay

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the tax on property, besides the charges for the services which were offered to them by the state entities.

„The tax represents that financial, compulsory and non-refundable contribution which is owed – under the law – to the budget by the natural and/or legal persons for the income they make, for the goods they own, respectively for the merchandise they produce and/or distribute or for the services and works they provide or execute (Georoceanu, 2012, p. 17).

“The tax, totally undesirable, he has become so bitterly a daily leitmotif. People perceive it as a frustration, an assault on their income and agonization, an obstacle that many want to circumvent in their laborious journey to the coveted prosperity for them and their close ones (Tulai & Șerbu, 2005, p. 13).

Hence, the legal persons who possess buildings, both residential and non-residential, owe a tax to the local authorities under whose jurisdiction those buildings are.

2. Research methodology

For the achievement of this scientific approach I used the comparative method, in the sense that, after having learned the tax rates of the non-residential buildings owned, I made a comparative study in order to be able to make an analysis related to those rates and if those rates could have a social effect on the population of the localities across the Cluj County which made the object of the scientific approach.

3. About the tax rates and the provisions of the Tax Code (Law no. 227/2015)

The information I used in this scientific approach was collected from a number of 71 localities of the Cluj County, including the municipalities of Cluj-Napoca, Câmpia Turzii, Dej and Turda, as well as the town Huedin. At the same time, we also inserted in this article the population of the previously mentioned places. The data used for the population come from the census of the year 2011.

The tax rates and the number of the population of the Cluj County localities are entered in Table 1:

Table 1

Nr.crt.	Mayor's Office	Tax rate (%)	Population (inhabitants)
1.	Campia Turzii	1,1	22.223
2.	Cluj-Napoca	1,0	324.576
3.	Dej	1,0	33.497
4.	Gherla	0,6	20.203
5.	Turda	1,5	47.744

6.	Huedin	1,0	9.346
7.	Aghiresu	1,65	7.116
8.	Aiton	1,0	1.085
9.	Aluniș	1,0	1.223
10.	Apahida	1,2	10.072
11.	Așchileu	0,4	1.601
12.	Baciu	0,76	10.317
13.	Băișoara	1,3	1.940
14.	Bobâlna	1,0	1.402
15.	Bontida	1,25	4.856
16.	Borșa	1,3	1.223
17.	Buzău	0,2	1.264
18.	Căianu	1,3	2.355
19.	Călărași	2,0	2.021
20.	Călățele	1,0	2.243
21.	Cămărașu	1,01	2.655
22.	Căpușu Mare	1,05	3.295
23.	Cățcău	1,3	1.371
24.	Cătina	1,3	1.993
25.	Ceanu Mare	1,34	3.531
26.	Chinteni	0,2	3.065
27.	Chiuiești	0,8	2.332
28.	Ciucea	0,2	3.065
29.	Ciurila	0,5	1.594
30.	Cojocna	1,3	4.194
31.	Cornești	1,3	1.493
32.	Cuzdrioara	1,1	2.733
33.	Dabâca	0,2	667
34.	Feleacu	1,5	3.923
35.	Fizeșu Gherlii	0,3	2.564
36.	Florești	1,04	21.832
37.	Frata	1,3	4.242
38.	Gârbău	1,3	2.440
39.	Geaca	1,0	1.626
40.	Gilău	1,0	8.300
41.	Iclod	1,3	4.263
42.	Izvoru Crișului	1,25	1.632
43.	Jucu	1,0	4.270
44.	Luna	1,0	4.268
45.	Mănăstireni	1,3	532
46.	Mărișel	0,4	1.488
47.	Mica	0,4	3.566
48.	Mihai Viteazu	1,3	4.129
49.	Mintiu Gherlii	0,75	1.550
50.	Mociu	1,07	3.313
51.	Moldovenești	0,2	3.317
52.	Negreni	0,8	2.321

53.	Palatca	0,2	1.218
54.	Panticeu	1,3	1.844
55.	Petreștii de Jos	0,2	1.512
56.	Ploscoș	0,2	337
57.	Poieni	0,6	4.842
58.	Recea Cristur	1,0	1.412
59.	Săcuieu	0,8	1.466
60.	Sâncraiu	1,0	1.633
61.	Săndulești	1,3	1.798
62.	Sânmartin	1,3	1.384
63.	Sânpaul	1,0	2.382
64.	Săvădisla	0,2	4.392
65.	Sic	0,2	2.405
66.	Suatu	1,3	1.737
67.	Tureni	1,47	2.278
68.	Unguraș	1,0	2.777
69.	Valea Ierii	1,3	888
70.	Viișoara	1,2	5.493
71.	Vultureni	1,3	1.516

Tax rates and number of population in the Cluj County localities
(Author's processing)

As it can be seen, the interval in which those tax rates frame is from 0,2% to 2%. Law no. 227/2015, art. 457, specifies the interval related to the tax rate as being within the range 0,2-1,3%.

Under certain terms of economic, social, etc nature, these rates may increase by up to 50% (article 460). Subsequently, certain Mayor's Offices made use of that provision and brought the percentage rate up to 2% (it is true that was the case of just one Mayor's Office).

Making a centralization by groups of percentage rate one may notice that:

Table 2

	Percentage rate between 0,2 – 0,9%	Percentage rate between 1,0 – 1,5 %	Percentage rate between 1,6 – 2,0 %
Number of Mayor's Offices	22	47	2
Mayor's Office percentage	30,99%	66,18%	2,83%

Mayor's Offices distribution according to the tax rate (Author's processing)

From Table 2 it can be seen that the majority of the Local Councils decided that the values of the tax rate frame, as much as possible, within a reasonable interval for legal persons.

4. The taxation of the non-residential buildings of legal persons in the city of Cluj-Napoca and the neighboring localities

In this scientific approach I wanted to make a small comparison related to the tax rates charged in the city of Cluj-Napoca and the localities which are considered “dormitories” of this city (Table 3):

Table 3

Mayor's Office	Tax rate (%)	Population (inhabitants)
Cluj-Napoca	1,0	324.576
Apahida	1,2	10.072
Chinteni	0,2	3.065
Feleacu	1,5	3.923
Florești	1,04	21.832
Gilău	1,0	8.300

The taxation of the non-residential buildings of legal persons in the city of Cluj-Napoca and the neighboring localities. (Author's processing)

Analyzing the data of the Table 3, some ideas may come off:

1. In the localities where the population number is higher the percentage rate is lower which may mean that the money of the local budget is collected in a larger amount from the population and not from the companies;
2. Chinteni charges a percentage rate at the low limit of the legal provisions which means that their intention is to attract companies within the locality especially since the infrastructure improved;
3. Apahida and Feleacu, which are located on E81 and DN16, could attract companies more easily to move their headquarters and charge them taxes.
4. In exchange, Florești, located on E60, relies on the taxes charged from natural persons especially since some of the companies preferred to have their headquarters or secondary offices in Gilau.

5. Comments

In all the places making the object of our scientific approach we noticed the observance of the legislation related to the taxation of the non-residential buildings owned by legal persons.

But, if some of the Local Councils voted to preserve the tax rates at the same level as the preceding year, other Local Councils voted either for the increase of those taxes with the inflation rate or they made use of the provisions of Law no. 227/2015 going up to the admissible upper limit. In what concerns the competence of the Local Councils by categories of assignments, these deliberative entities, in their position of autonomous administrative authorities of the Romanian local public administration, have initiatives and decide, under

the terms of the law, on all the matters of local interest, except for those which are assigned, under the law, to the competence of other authorities of the local or central public administration. (Roş, 2015, p. 50)

The questions coming out are the following: is the attraction of companies in those places really desired or not? Is there the wish to create new jobs for the population of those places or not? Is the infrastructure development really desired in those places or not? Unfortunately, time will offer us a part of the answers to those questions.

Conclusions

The tax on non-residential buildings owned by legal persons makes a part of the budget of a locality. If there is the wish that this tax has a greater weight than this tax rate must not be raised at the maximum admissible level but kept within normal limits.

When a company settles down its headquarters or secondary offices in a locality, such company wishes to pay as low taxes as possible because, by attracting the local labor force and more, it will pay tax on the labor force and, maybe, it will contribute to the infrastructure of that locality and this can only lead to the increase of the living standard of the said locality.

And if the respective locality or localities are closer to a national road, important railway or even airport, this leads to the increase of the degree of civilization and social life in those localities.

And one thing should not be omitted: since 2016, since the introduction of this methodology of taxation, contrary opinions have emerged, as the former President of ANEVAR said: “there are talks about the transition to taxation based on the market value of the buildings by giving up to the current system, which is based on their location.

The contradiction comes from the fact that market value is significantly influenced by the location of the property, and today the tax system does not take into account the location of the building □ (Vascu, 2016, p. 11).

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