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ILLEGAL TAX PLANNING THROUGH ACTIONS WHICH ARE DEFINED CRIMINAL ACCORDING TO THE TAX LAWS

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The article discusses actions that defined as criminal according to tax authorities and the relation between them and illegitimate tax planning, including details of the legitimate activities permitted by law and that are not deemed as illegal. An emphasis was given to the rate of tax evasions in compared to other states around the world and the way the states of Israel and Moldova treats the phenomenon of non-legitimized tax planning, in contrast to actions taken by states around the world to eradicate this phenomenon.

The findings of this article prove initially that this phenomenon is worldwide, and that any state has really found a magic solution for this issue. However, there are number of measures that can significantly reduce the phenomenon, and this is by prohibiting the execution of transactions in large amounts of cash.

Keywords: *legitimate tax planning, tax fraud, breaches in law, tax evasion, tax policy, tax obligations.*

PLANIFICAREA FISCALĂ ILEGALĂ PRIN ACȚIUNI CARE SUNT RECUNOSCUTE CRIMINALE ÎN CONFORMITATE CU LEGISLAȚIA FISCALĂ

Sunt puse în discuție acțiuni care pot fi abordate de către autoritățile fiscale ca infracțiuni sub aspectul planificării fiscale ilegale, în timp ce detalizarea acestor acțiuni permite efectuarea lor în conformitate cu legea și neconsiderarea acestora ca fiind ilegale. Un accent este pus pe problema privind evaziunea fiscală în aspect comparat cu alte state și pe modul în care în Israel și în Moldova este tratat fenomenul planificării fiscale ilegale. Sunt specificate acțiunile întreprinse de către statele lumii pentru eradicarea acestui fenomen. Constatările autorilor demonstrează că acest fenomen are loc la nivel mondial și că niciun stat nu a găsit soluție magică pentru această problemă. Cu toate acestea, mai multe măsuri de reducere semnificativă a fenomenului au fost elucidate, printre care inițierea raportărilor denotă o reducere semnificativă a opțiunii de a efectua plăți cu sume mari de bani în numerar.

Cuvinte-cheie: *planificare legitimă fiscală, fraudă fiscală, încălcări ale legislației, evaziune fiscală, politică fiscală, obligații fiscale.*

Introduction

Illegal tax planning is considered to be intention to use legal instruments, that the State gives to taxpayers, in order to allow them to save tax payment, and how they choose to use these tools in order to avoid tax.

Tax collection rates are decreasing in direct ratio to the growth of tax evasions in the state and around the world, ways of dealing by the Authorities with the phenomenon are very few and very weak, The tax payer has learned to use a representative of tax consultant that is well familiar with laws and legislations in order to reduce the tax burden, often also by illegal means.

In Israel, the tax Authority has opened procedure for tax payers called "volunteer disclosure" according to which, to every tax payer is given the opportunity to resolve his debt and/or to reveal the true taxable amounts and this with no fear of any criminal sanction. These efforts combined with helping and aiding with information courtesy of tax payers from other countries, improved the collection rates and refrain from decline of the situation. However, the tax Authorities in Israel and in the world still have much work as moves and attempts to find breaches never cease.

In Moldova in 2015 with the support of the Ministry of Finance, a trend started to strengthening authorities, which are imposed on tax enforcement.

To these authorities were given extensive power to carry out in order to fight the phenomenon. However, the tax authorities in practice are unable to prosecute tax fraud due to the absence of a clear and effective legislation. The police in Moldova have different tools to carry out arrests of tax evaders, but in the absence of a solid law, it creates disorder and incompatible definitions of what is defined as an offense and how much it is severe.

The possibility of making tax planning, led among others, to multiple use in sophisticated and creative ways for tax evasion. The tax authorities in different countries have declared a bitter war against aggressive tax planning, and a confidence that directed by the tax authorities has been severely damaged.

The tax authorities have not only begun to questioner all those reports, chose to impose the use of this option in a way that, by law, not criminal sanctions in prison alongside. Although it is possible that these sanctions will halt the phenomenon, but it is important to remember to examine the penetration of criminal justice and the economic realm's borders criminal responsibility.

Discussion and obtained results

The phenomenon of tax evasion, is gaining momentum at all countries around the world, and appears in all shapes and volumes. Despite many and varied efforts of most countries to eradicate the phenomenon, it seems that tax evaders often manage to evade the restrictions and create sophisticated and creative methods of tax evasion on very large scale. By its nature, the underground economy is difficult to study empirically. Nevertheless, there has been a good deal of progress on ascertaining data and developing techniques for quantifying its size and importance. Whilst different approaches yield different estimates, the general conclusion is that the extent of informal economic activity is substantial. For example, over the period 1988-2000, the average size of the shadow economy as a proportion of GDP ranged between 14-16 percent in OECD countries; the equivalent numbers for developing countries were much higher at 35-44 percent, and in some cases reached the staggering figure of 70 percent or more [1, p.243-250].

Most of the taxes evasions are revolve around one kind of tax the income tax [2, p.93-129]. Between all the taxes that a state imposes on its residents, an income tax on resident considered to be the largest and most significant tax. In all the states around the world this tax constitutes most of the income of a state. As a result, this tax is the highest tax for a tax payer and most of the tax offenses are related to this tax [3, p.53-55].

A sophisticated way for tax evasion, is carried out under the heading of tax planning, the legal process by which the state allows tax payers to plan their pockets in such a way that reduces the tax fee as long as taxpayers would qualify and comply with the law criterion. But actually since the line boundary that passes between tax avoidance to tax evasion is very thin, we are exposed to more and more cases of tax planning that all their purpose leads to tax evasion, which is illegal and is in the area of criminal law. This is, compared to tax evasion which is early planning of tax payments by law and legitimately, through actions that lead ultimately to tax reduction that paid according to predefined rules.

State tax authorities that are functioning as the governing body that collects the taxes are responsible for the full collection of taxes from the total amount of taxpayers. Any concession or process of reduction to the taxpayer, eventually undercut the other public of taxpayers. Therefore, such power vested in those bodies, to examine the possibilities and to act in accordance with the law and in equal manner.

That's the reason that in front of the taxpayer's right stands the public interest for existence of a just and egalitarian society, It is because, according to conventional theory, the significance of tax planning is that reducing one taxpayer the total tax liability that imposed on him, other taxpayers will have to pay more, for example, by raising tax rates, eliminating exemptions and reliefs eliminating and reducing pensions [4, p.79-83]. For the state budget remains more or less constant.

So the tax authorities charge a fixed amount of taxes to finance their budget needs and therefore when one taxpayer pays less, others are forced to pay more. In addition to a generally accepted assumption that because tax planning is complex and requires a taxpayer to use qualified professionals, so wealthy people enjoy tax reductions as a result of tax planning and the one without means have to pay more tax in the absence of sufficient resources to carry out tax planning [5].

If so, it seems that the main question about tax planning is not if allowed to perform tax planning, but whether the examinee is legitimate enough that the taxpayer's right to do and to enjoy the tax reduction it entails, takes precedence over the public interest. As mentioned above, in order to determine the eligibility of a particular taxpayer a tax reduction benefit as a result of tax planning that he committed, need to examine the legitimacy inherent in his actions employed by him, against the public interest in a just and equitable tax.

The legitimacy of the planning activities, offering Prof. Glicksburg test model according to which there are three types of tax planning:

- *Positive tax planning;*
- *Neutral tax planning;*
- *Negative tax planning.*

Positive tax planning is planning that encourage by the legislature expressly by law, for example, planning that utilizes the tax benefits granted under the laws of encouragement.

Neutral tax planning is planning that takes advantage of the fact of the existence of several possible paths tax, and design the transaction to fit the most payable tax path, when the legislator has no interest in one of the paths and the different tax liabilities due to other factors related tax provisions.

Negative tax planning, is tax planning that exploiting loopholes in the tax laws, which the legislature did not intend to allow and could not predict their exercise, so that planning creates a tax liability relief in a way that prevents the intention of the legislature.

The fundamental principle underlying the thesis holds that positive tax planning will be recognized, as a rule, as legitimate tax planning and will be recognized as non-legitimate negative tax planning and neutral tax planning will be considered legitimate as long as choosing the path of this tax over the other, the taxpayer did not breach the purpose of this legislation.

Although the method to define clearly what is considers and what is not considered as tax evasion also helps to reduce cases that needs to be defined, yet, our opinion is that the main problem remains the same, because the main problem in the issue, that it is revolves around the gray area and the ability of creditors to disguise tax evasion as planning activities are performed in accordance to the law, and for those cases it is precisely right to give the proper attention and solutions, the distribution system to three does not provide an answer in this area [6, p.128-129].

Reference of the criminal justice in Moldova State for the phenomenon of aggressive tax planning. Moldova, one of the former Soviet countries, the phenomenon of tax evasion, is ranked very high in comparison to other countries in the region. The Moldova's law, which should handle the issue of tax evasion, and deter potential perpetrators of the offenses which cause tax, has only one section, which does not specify the existing prohibitions in the country and by that opens many possibilities for crimes due to lack of clarity.

While in other countries tax avoidance exists in large proportions, the Moldovan government is not mindful enough to carry out the eradication of the phenomenon.

In accordance with the article 244 Criminal code of the Republic of Moldova (Tax Evasion by Enterprises, Institutions, and Organizations) [7]:

(1) Tax evasion by enterprises, institutions, and organizations by including into accounting, fiscal, or financial documents obviously distorted data on revenues or expenses or by concealing other taxable objects provided that the value of the tax payable exceeds 2500 conventional units shall be punished by a fine in the amount of 1000 to 2000 conventional units or by imprisonment for up to 2 years, whereas a legal entity shall be punished by a fine in the amount of 1000 to 3000 conventional units with the deprivation of the right to practice certain activities.

(2) The same action:

[Letter a) excluded by Law No. 277-XVI dated 18.12.2008, in force as of 24.05.2009]

b) that leads to the nonpayment of tax on an especially large scale shall be punished by a fine in the amount of 2000 to 3000 conventional units or by imprisonment for up to 3 years, in both cases with the deprivation of the right to hold certain positions or to practice certain activities for up to 3 years, whereas a legal entity shall be punished by a fine in the amount of 3000 to 6000 conventional units with the deprivation of the right to practice certain activities or by the liquidation of the legal entity.

The lack of definitions and rules in the Moldavian law, and the difficulty in distinguishing between tax evasion and tax avoidance, is actually increasing the phenomenon of tax evasion and its methods and therefore it's becoming more and more sophisticated, such as: forming fictitious companies, tax havens, hiding revenues, faking licenses, increasing expenses, etc. Since the tax authorities choose not to emphasis the problem, while believing that fighting the phenomena is hopeless, it continues to extend its scope.

Tax authorities in Moldova, must take an example from other countries that have chosen to fight this phenomenon, and to implement the ways to resolve it. Most of these countries were able to reduce the phenomenon significantly, mainly through the renewal of legislation and by creating a significant deterrence in order to make the public double thinking before they commit an offense.

We can find another reference of tax evasion in Romania and Moldova in a brochure of Transylvania University in a bulletin of the Transylvania University of Braşov. This brochure defines the amount of tax revenue compared to the average European and the connection to the phenomenon of tax evasion:

"The amount stolen through tax evasion is difficult both in Romania and in Moldova. However, in order to create an image on the extent of tax evasion phenomenon and its trends, we believe that the analysis of shadow economy share, which includes tax evasion in GDP (Gross Domestic Product), in conjunction with

share of budget revenues, GDP provides information relevant for this issue. Thus, we find that in Romania, in the period 2003-2010 the share of shadow economy in GDP has been growing, what gives as indication of the proliferation of tax evasion phenomenon in the national economy. At the same time, analysis of the share of budget revenues (tax and nontax) in GDP note that Romania has the lowest percentage of revenues in the GDP of EU Member States, respectively by 11.6 percentage points in 2009 lower than the European average, and also the tax revenues (taxes and tax contributions) to GDP was in 2009 by 12 percentage points lower than the average of other European countries. The figures show us a low level of tax collection of obligations tax, inefficient administration of public finances, but also a relatively low tax base, with many exceptions and deductions regulated by law, which ultimately translate into higher tax evasion. In comparison, note that the share of shadow economy in GDP is below 15% in the countries of northwestern Europe (Austria, Germany, Ireland, Great Britain, Luxembourg and the Netherlands), and those values are significant and point to the existence of underground economy, and implicit tax evasion. One thing is certain: the underground economy exists in all countries, with different proportions relative to GDP, according to administrative and legal measures taken by authorities. However, not infrequently, some governors have admitted the existence of tax evasion for rapid accumulation of domestic capital and so to encourage consumption and boost their own output, even if that accumulation was made by reducing supply of public finances. Comparatively, in Moldova in 1999- 2006iv, the economy registered a 45.8% share of GDP for the first nine months of 2010 to reach a contribution of 23%, while the overall level of taxation is 34% of the GDP" [8, p.127-132].

The Criminal Code of Moldova [7], has been updated regarding the scope of tax evasion, and gives specific reference to the punishments of tax evaders, and applicant's statements and false data. The law defines the seriousness of the offense according to the amount of money that was supposed to be paid, and in fact was not reported or less reported. Another reference in the updated law is regarding the aging period of such offenses, this is of course in order to expand the capabilities of the government to seize evaders, in cases that require long investigation and evidence that an offense was committed.

Like other countries also in Moldova, many oppose to the power that has been given to the tax authorities under the criminal law. Many fear from abuse of these powers against taxpayers and indicate on the violation of freedom of property and freedom of liberty (imprisonment sanctions).

Israeli law to the phenomenon of aggressive tax planning. Israeli courts, as well as state tax authorities, accepted the fact that taxpayers try to reduce their tax liability consistently. The Stubborn struggle of the authorities in the attempt of the taxpayers to make the reduction in ways that are not valid, and the great difficulty is to find the same people who are doing everything in order to conceal their illegal activities under those sections that allow performing reduction by law.

As mentioned above, these taxes planning have criminal aspects. And often required the courts to answer the question when and where to draw the line between tax law and penal law, a distinction that is mostly non-trivial and sometimes we find higher legal courts, that change the decisions of which are subject to them.

A good example for the issue, can be when Mr. Horowitz was convicted in the District Court in Jerusalem for having omitted the income tax as a result of faulty planning, the court ruled that these actions, count as criminal offense. While the appeal was filed to the Supreme Court, Horowitz won in all charges against him [9].

Specific definition in the law to the process, begun in 2005, Amendment No.147 of the Income Tax Ordinance, to the Ordinance added a Second Section 145 a(2), that gives the assessment clerk tools to deal with aggressive tax planning, by imposing an obligation to report on the steps defined as aggressive tax planning. The Explanatory Notes make clear the need for the amendment:

"Unlike tax planning in the past, tax planning today are global, are characterized by great sophistication, using legal means and financial services, including in "tax haven", taking advantage of tax treaties. In some of the designs have a misuse of tax treaties or based on an interpretation of the provisions of the law that has a distortion of the intent of the legislature. In addition, in some tax planning the taxpayer assume that the probability of tax planning aimed at tax avoidance or Improper reduction of tax will be detected in a Tax assessment audit is low, and the assessment of the taxpayer shall be barred, and the maximum is required the taxpayer to pay the tax that he should be paid in the first place".

Another reference in the law can be found in the tax code section 220 that defines: "A person who willfully, deliberately evade tax, or help another person to evade tax, has been one of the offenses listed below". His Justices, seven years imprisonment or a fine of NIS 67,500 (150,000 up to date) and twice the amount of revenue leaves, intended to conceal or helped to conceal or both penalties, and these are: (1) Omitted from a report

conducted according to command any income that needed to be included in the report; (2) Use any cheating, pile or a trick or allowed to use them. The offense is a criminal offense with all that entails. And a further distinction in the legislation that constitutes the border line between tax planning and criminal responsibility is artificial and fictitious transaction found in section 86 of the Income Tax Ordinance.

Fictitious transaction is insubstantial. It is according to appearance, and the parties do not want to keep it according to the external reflection. Whereas in the artificial transaction the parties interested to maintain the transaction, but the design patterns perverse from economic life in order to reduce the tax burden. Use of this stratagem, is what section 220 (5) talking, The characteristic of tax evasion compared to performing artificial transaction referred to in Section 86 of the Ordinance, which are the characters of tax avoidance.

The search attempts after breaches in the law, are not ceasing, and eventually bring a significant broadening in the tax evasion phenomenon. This phenomenon affect the functioning of the state that as is written above is based on money that arrives from this tax. In addition, the phenomenon brings along with it feelings of injustice in the public in all matters related to equal and just collection from all citizens, this feeling creates unrest and eventually brings about an enhancement of the phenomenon.

In current reality, when the availability of information on various fields including laws and legislations in the field of taxes, is extensively large, it is possible that we will see more and more tax payers, address to exanimate their possibilities to plan their taxes in such a way that will eventually reduce their tax payment to Authorities. In addition to the availability of information, each year the population of professionals in the field of accounting and tax management is increased, which enables the tax payer to perform such actions [11, p.305].

The Income Tax Ordinance defines the felonies for which sanctions are criminal, and the penalty accompanying them is a fine or incarceration. Income tax offences are divided into two: technical offences and substantial offences, technical tax offences can be carried out by any person due to misunderstanding or unfamiliarity with tax Authority legislations. For example: failure to submit reports in due time. Oppositely, substantial offences concern by filing out false reports, tax evasions and income exclusion. Examples of technical and substantial offenses [12, p.250-253]:

- *Failure to comply with requirements of Law and Income Tax Ordinances.*
- *False reports.*
- *Not reporting a change in status of business transaction.* As long as a tax payer and a professional that advises him employ legal tools for tax planning there isn't any problem. The main problem starts at the moment one of them or both execute all the actions for tax planning including actions that are illegal and are not defined as legitimate according to law. The law defined those criminal actions that constitute a violation, amongst which: are deliberately under-reporting or excluding income. This is self-explanatory: concealing income is fraudulent. Examples include a business owner's failure to report a portion of the day's receipts or a landlord failing to report about rent payments.
- *Keeping two sets of books and making false entries in books and records.* Engaging in accounting irregularities, such as a business's failure to keep adequate records, or a discrepancy between amounts reported on a corporation's return and amounts reported on its financial statements, generally demonstrates fraudulent intent.
- *Claiming false or overstated deductions on a return.* This can include claiming a large charitable deduction without substantiation or making a substantial overstatement of travel expenses. It can also include paying your children or spouse for work that they did not perform.
- *Claiming personal expenses as business expenses.* This is an easy trap for a sole practitioner to fall into because often assets, such as a car or a computer, can have both business and personal use. Proper record-keeping will go a long way in preventing a finding of tax fraud.
- *Hiding or transferring assets or income.* This type of fraud can be found in a variety of forms, from simple concealment of funds in a bank account to improper allocations amongst taxpayers. For example, improperly allocating income to a related taxpayer who is in a lower tax bracket, such as a corporation makes distributions to the controlling shareholder's children, is likely to be considered as tax fraud. Related of taxpayer's faces a closer scrutiny.
- *Engaging in a "sham transaction".* You can't reduce or avoid income tax liability simply by labeling a transaction as something it is not. For example, if payments by a corporation to its stockholders are in fact dividends, by calling them "*interest*" or otherwise by attempting to disguise the payments as interest will not entitle the corporation to an interest deduction. It is the substance, and not the form, of the transaction that determines its taxability [13]. The income tax looks to the substance, not to the form.

Tax avoidance lowers your tax liability by structuring your transactions so that you will receive the largest tax benefits. Tax evasion is an attempt to reduce your tax liability by deceit, subterfuge, or concealment. Tax evasion is a crime while tax liability is not. The question is when tax avoidance goes too far and cross the line to become illegal tax evasion. Often the difference between tax avoidance and tax evasion is whether the actions were taken with fraudulent intent. While tax evasion can be as simple as failing to report the income you earn from a second job, tax avoidance requires advance planning. By this we are not saying that tax evasion may not need to include careful planning.

Israel Tax Authority suspected that Israel had turned into a tax haven over the past decade as a result of pro-immigration laws. The laws exempt immigrants from paying local taxes on their assets and enable them not to report assets for their first 10 years in the country.

Israeli Tax haven began in 2003, but was expended dramatically in 2008. Then Israel legislated the 168 amendment to the Income Tax Ordinance, which discusses tax obligation of new immigrants and returning residents. The amendment determined that returning residents or new immigrants will be tax exempt on their properties abroad for ten years (the exempt in only for properties abroad, for properties in the state they have to pay a regular tax). In this, new immigrants and returning residents received priority over the rest of Israeli citizens – every Israeli citizen has, from 2003, to pay tax in Israel, on his income from all over the world (Personal taxing system).

Several anti-money laundering avoidance techniques have been suggested to deter tax evasion. These techniques are restricting the rate of cash transactions, hiring new inspectors, stepping up reporting requirements by money changers and defining violations of Israel's Money Laundering Law as serious crimes.

Israeli Tax Authority Investigators and the police's anti-corruption and economic crimes unit entered to luxury homes that owned by French Jews that suspected in tax evasion. The raids were in response to a request by French police, sent through Interpol, based on suspicions that some French Jews had committed tax fraud and evasion in France involving massive sums. They are suspected of laundering the cash by buying luxury homes in Israel. The suspected money laundering of foreign Jews has led to an increase in the prices of homes in Israel. French police officers traveled to Israel to monitor wealthy immigrants from France. The police officers recorded conversations at cafes and restaurants in central Israel, bugged to phone calls, and ultimately raided the luxury homes.

In Criminal Appeal (Tel-Aviv) no.70036/00 Adirim Security Company LTD versus Israel Police (Honorable judge Berliner given on 03.10.2000) the defendants were convicted with the purchase of 62 false invoices in a total sum of about NIS 4.4 million and were convicted both with income tax offences and in Value Added Tax, with intent to avoid tax payment. The court authorized punishment of two years in prison and a fine set in appeal on total of NIS 250,000 for each of the people appealing. The Court took under consideration the long time that passed since the offences were perpetrated, about eight years since they ended, and also the personal circumstances of the people appealing.

A common scheme used by tax evaders is to cash checks written to the business or themselves at the payer's bank. A well-known anesthesiologist told his patients that were uninsured to write a check to him personally for his services. He went to their bank to cash their checks thinking there would not be any record since the money was not recorded on the books of his business or deposited into his business account. He did not include the first receipts in his income tax return. He was later sentenced to 13 months in prison, given three years of supervised release for tax evasion, and ordered to pay back taxes and restitution [14].

The subject of issuing false invoices was discussed in Israel in the Verdict of Adirim Security Company LTD versus the State of Israel in which a broad emphasis was given to the damage to state treasury.

Due to the wide prevalence of this phenomenon of trade and use of fictional invoices, which causes huge damage to the state treasury – it is our consideration that punishment should be enhanced and even to raise the bar of current punishment [15, p.323].

There are multiple examples of sole proprietors that willfully attempt to evade payment of federal income taxes by skimming gross receipts of their business or paying personal expenses from business accounts and later claiming them as business expenses. In the United States, thieves are required to report their stolen goods as income when they file their taxes. However, no one claims that the income is of their illegal acts. To file the income would be a confession of theft.

A good example of a country that decided to take over the treatment of tax avoidance is the United States: The USA began to covert surveillance of potential tax evaders which led to bank accounts outside the country

mainly in Switzerland. In those accounts discovered enormous amounts of money, that unable to provide explanations of creditors. The cooperation between the two countries, the USA and Switzerland, led to the exposure of the accounts at 106 banks in Switzerland. As a result of these findings, the two countries agreed that the cooperation whereby banks will be exposed the ways, which were tax evaders avoid from reporting, as well as give out the names of the tax evaders, so that they will be criminally prosecuted as a result legislation added on this subject, since 2013 a new US law was passed and known as the "FATCA" (the Foreign Accounts Tax Compliance Act).

This law regulates the transfer of information through financial institutions around the world and the reporting of the accounts of American citizens and residents in, the US tax authorities. All this, within the framework of an international convention of the American tax authority to locate American citizens who fulfilled their duty as required by law for filing reports and reducing tax avoidance and money laundering. American residents and citizens are obliged to sign the form, whose meaning is giving permission to the bank to report client information. The purpose of the report is to help American tax authority supervisory measures and prevention laundering money. Another means to combat the issue is: a new voluntary disclosure program in the US-IRS new streamlined procedure. This is the process whereby the US tax authorities allow their citizens to pay their unpaid tax without fines and without penalties, in case they did not submit reports in the past.

American Tax Authority assumes that, the country's citizens living outside the United States, there is low level of awareness on taxation. Therefore, allows those taxpayers comply with the law without penalties.

The field of tax planning aggressive, special focus since the volume of tax avoidance measures have become very wide, after the courts found it difficult to convict tax evaders on tax planning that is unlawful, massive Legislative began on the subject and given emphasis to the distinction between tax planning that is legal, and tax planning that considered as tax evasion and the penalty for which is a criminal.

Operations carried out in different countries around the world to eradicate the phenomenon. Canadian tax rates are relatively high, and even though most countries where tax rates are high, the phenomenon of tax evasion is widespread, Canada manages to keep small dimensions of the phenomenon. Some attribute that the reason is the many and extended power delegated to the authorities, which give them carrying out search and seizure without any right of civilians defense, widespread powers of detention and arrest, far beyond the norm in Western countries as well as local media advertising of those executing the tax evasion as a crime in the local media as humiliating deterrent effect. Some believe that the massive advertising of civil rights in the field of taxation, while examining legal options available to him for the payment of tax law, as well as the possibility to correct or disclose information that was transferred to the tax authorities without being convicted them, leads to substantial reduction of the phenomenon. Our own view is a combination of two things, plus strengthening and updating legislation, either through the enactment of laws and regulations that allow heavy penalties of imprisonment and a fine of a large side if adding and upgrading each legislative system, led to change and to good results in the field. The phenomenon results in reducing is proven without a doubt, however by considering the method we should be remembered the Significant harm in civil rights, including property rights, freedom and others.

US existing method likewise we do not see in other countries, the degree of taxpayer compliance with laws and order in the area of taxation is measured by a random sample of the population, as well as making extensive audits and reviews. The authorities are examining in depth the relevant exam data such as age, marital status, occupation, income, living area, and forming an action strategy. Trust seems excessively long have converted to taxpayers with regard to reporting on revenue, on the other hand taxpayer that perceived on false report, will be punished severely in all opinions, from the punishments for similar offenses in other countries.

Other activities carried out by the United States in the field is cooperation between different banks around the world, as it was mentioned before, as well as actions against those accountants and bookkeepers that helped to report illegally.

Conclusions and findings

Tax evasion is an attempt to reduce the tax liability by false premise. The question is, when does tax avoidance go too far and cross the line to become illegal tax evasion? Often the difference between tax avoidance and tax evasion is whether the actions were taken with fraudulent intent. With tax evasion and tax avoidance, generally there is a paper trail. However, with the latter of the two, fraudulent activity can be avoided with simple disclosure and honest intentions. Attempting to minimize the taxes one pays is not illegal, but one must be careful and seek legal counsel if there are any doubts or concerns.

Although there is little difference between tax avoidance, and tax evasion, regarding performs actions registration and reporting, yet there is a clear line that must not cross. Some of those taxpayers who choose to evade tax, using the various sections of the law in order to deceive the tax authorities, and to reduce the tax payment, in a manner that is illegal.

The attempts to carry out a reduction in the tax payment legally often leads to disappointing results in the eyes of the tax payer, which finds that the use of illegal ways, bringing a much more significant effect.

One way to reduce this trend is by creating significant deterrent that leads to fear in potential tax evaders to perform tax evasion. Also making public surveillance after tax consultants, which often advises clients to pay tax savings in illegal ways. If a potential tax increase, in order to understand that making a tax offense entails higher fines and criminal sanctions, and if tax consultants understand that their license to practice is in danger, we may find that the phenomenon of tax evasion gradually will decrease.

Governments are responsible for legislation in the countries, cannot declare war on tax avoidance on the one hand and on the other hand rely on the response of taxpayers to comply with the law as it is. Even though there is obedient people who pay the taxes they owe, and although, there are people who carry out state declarations.

Yet, there are so many that do not comply with the instructions. Therefore, governments must perform significant legislation, by providing legal responsibility on citizens, with penalties for non-compliance. Tax evasion is extremely common, like always has been, and probably always will be, that's why always needs to be new thinking of enforcement and deterrent actions that need to be performed.

Suggestions for improvement:

- Updating taxation law under ordinance and adjusting it to eradicate the phenomenon of tax evasion like those developed in the past several years. Signing international treaties examples Convention between Israel and the US, in the field of tax evasion, These Conventions are helping many countries for cross-referencing of information about potential tax evaders: Paragraph (1) of Article 29 (Exchange of Information) of the Convention shall be deleted and replaced by the following: *“(1) The competent authorities of the Contracting States shall exchange such information as is pertinent to carrying out the provisions of this Convention or preventing fraud or fiscal evasion in relation to the taxes which are the subject of this Convention. Any information so exchanged shall be treated as secret and shall not be disclosed to any persons or authorities other than those concerned with the assessment (including judicial determination), collection, or administration of the taxes which are the subject of the Convention.”*

- Reducing the use of cash: minister's committee for legislation matters approved the recommendation of the Locker committee – the committee consolidated policy layout to reduce and limit the use of cash as method of payment in the market a year ago when the main goal was fighting black capital and money laundering. At the same time, the war against black capital will bring about an increase in the state income, due to a study of World Bank that was published in the past and estimated that the extent of loss of income from taxes the black market in Israel brings about is 40-50 billion NIS. The main recommendation of the committee is regarding three fields: limiting the use of cash; limiting the use of checks, and promoting the use of electronic means. A limit of cash transactions was imposed with an amount of 10,000 NIS (New Israeli Shekel), when the goal is that in the future this amount will decrease to 5,000 NIS. Tourist visiting Israel will be able to make unlimited acquisitions in cash, while in acquisitions above 25,000 NIS the Israeli salesman will be obliged to report to the tax Authority.

- Enhancing reinforcement and severe the penalties: as part of the tendency of enhancing the described reinforcement and penalty, courts have the tendency in last few years to be more severe in extending punishments towards substantial tax offences and impose long term jail penalties and heavy fines in those cases. Examples of substantial tax offences are the following: excluding income; managing false account books; filing of false reports; issuing fictitious invoices.

I. Moldova's acts to eradicate tax evasion:

The dealing with state tax avoidance is reflected in several ways:

1. The state began drafting and amendment of legislation, in opinion that it will lead to a number of changes:
 - A) The possibility of obtaining personal data for analysis taxable income.
 - B) Formulation and laws that is clear and simple.
2. Rethinking about the high tax burden as known contributes directly to tax avoidance.
3. Public information campaign regarding tax collection and payment of tax with the intention to change the common perception that it's okay to eliminate state taxes.

4. Examination of the relationship between the amount of credit granted by banks and efforts to make tax evasion [16, p.153-174].

5. The sanction of course in combination with the criminal law in such offences.

II. Israeli acts to eradicate tax evasion:

In Israel the tax evasion phenomena is expanding, but relatively expanding slowly compared to other countries in the world. The use of tax planning option certainly added a high percentage phenomenon, as stated quite a few tax evaders used as a cover for the operation of legal tax reduction. According to the tax authorities, a considerable number of tax planning are illegitimate, and this option is selected by the taxpayers is made from one goal to perform tax evasion. Although the authorities have given their consent to carry out tax planning, it is not certain they have not took under consideration in the decision the possibilities opened to the taxpayers to use this authority to perform acts of tax evasion under the guise of illegal tax planning, Today it is difficult if not impossible to think of eliminating this possibility.

As part of the struggle of the tax authorities in the phenomenon, introduced the obligation to report 15 types of tax planning, according to the Authority's opinion, the effectiveness of the reporting requirement is not measured by the number of reports filed with, but in the Number of tax planning, pre avoided thanks to the deterrent effect of the existence of the report.

In addition, and against the execution of tax evasion, not by the way of tax planning, were established numerous commissions to study the phenomenon, when last one, concluded among other things, to make it easier for taxpayers by reducing the appropriate expenses deductible, eliminating abnormal discharge, prevention of tax havens, expanding the tax base while spacing tax brackets and lowering tax rates.

References:

1. BLACKBUM, K., BOSE, N. *Tax evasion the underground economy and financial development* journal of economic behavior and organization. Volume 83, July 2012, p.243-250 <http://www.sciencedirect.com/science/article/pii/S016726811200128X>
2. BROOKS, N. The responsibility of judges in interpreting tax legislation. Published by IBFD publication in cooperation with Australian tax research foundation. In: Graeme S.Cooper, ed.*Tax Avoidance and The Rule of Law*. Amsterdam: IBFD, 1997, p.93-129. ISBN 90-70125-98-6
3. BROOKS, M., HEAD, J. Tax avoidance. In: *Economic Law and Public Choice*, 1997, p.53-55. ISBN 90-70125-98-6
4. MORRIS, D. *Tax cheating illegal but is it immoral?* Published by State University of New-York press, June 2012, Excelsior Edition, p.79-83. ISBN 978-1-4384-4270-9
5. The Income Tax Ordinance (New version), 1961, Section 215-219. In: *Laws of the State of Israel* (New Version), no.6, dated 25/04/1961, p.120.
6. RAEME, S.Cooper. *Conflicts, Challenges and Choices the rule of law and anti-avoidance rule*. Published by IBFD publication BY in cooperation with the Australian tax research foundation. ISBN 6-98-70125-90
7. Codul Penal al Republicii Moldova nr.985-XV din 18 aprilie 2002. În: *Monitorul Oficial al Republicii Moldova*, 2002, nr.128-129.
8. MANEA, A.C. Means and methods of preventing and combating tax evasion adopted by Romania and Moldova. In: *Bulletin of the Transilvania University of Braşov Series VII: Social Sciences, Law*, 2011, vol.4(53), no.2, p.127-132. http://webbut.unitbv.ro/bu2011/Series%20VII/BULETIN%20VII/05_3%20Manea.pdf
9. Verdict Promedico, 2362/11.
10. Convention between the Government of the United States of America and the Government of the State of Israel with respect to taxes on income (January 1, 1995). <https://www.irs.gov/pub/irs-trty/israel.pdf> (Accesat: 29.10.2016).
11. CORDES, J.J., GALPER, H. Tax Shelter Activity: Lessons from Twenty Years of Evidence. In: *National Tax Journal*, 1985, Vol.38, No3, p.305.
12. BLACKBUM, K., Bose, N. Tax evasion, the underground economy and financial development. In: *Journal of Economy and Financial Development*, Vol. 83, Issue 2, July 2012, p.250-253.
13. www.taxes.gov.il
14. Department of Justice U.S. Attorney Office Northern District of Texas, 2014, January 9.
15. BAGARIC, M., ALEXANDER, T. A Rational Approach to Sentencing White-collar Offenders in Australia. In: *Adelaide Law Review*, 2013, Volume 34, Issue 2, (p.318-349), p.323, ISSN 0065-1915 <https://www.adelaide.edu.au/press/journals/law-review/issues/alr-vol-34-2/alr-34-2.pdf> (Accesat: 29.10.2016).
16. DABLA-NORRIS E., FELTENSTEIN, A. The underground Economy and its Macroeconomic Consequences. In: *Journal of Policy Reform*, 2005, vol.8, p.153-174. http://www.hkimr.org/uploads/seminars/378/sem_paper_0_63_feltenstein040302.pdf (Accesat: 29.10.2016).