

Local and Regional Tax Administration in Romania

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1 Introduction

PURPOSE AND LIMITATION

This paper has been written by the teaching staff from the National School of Political Studies and Public Administration, the Romanian Institute of Public Administration and the National Research Institute for Industry. This paper is intended to describe and present some insights about the system of Romanian taxation and tax administration.

The paper is based primarily on the field research conducted specifically for this project, and on the authors' professional experience.

OUTLINE

In order to understand the Romanian tax system and its tax administration, it is necessary

to have some rudimentary knowledge about the *public sector*, with a comprehensive overview of its *structure and size*. This is the focus of *Chapter 2*.

Chapter 3 is a detailed presentation of the *Romanian System of Taxes and Duties*.

Chapter 4 deals with *fiscal policy* issues.

Chapter 5 takes a closer look at the *Romanian Tax Administration*.

Chapters 6, 7, and 8 detail the *Romanian Fiscal System Management* and the *Organization System*. Special attention is paid to the changes over the past seven years.

Finally, in *Chapter 9* we will present a few preliminary conclusions our staff has reached to date.

2 The Public Sector in Romania

2.1 COUNTRY AND PEOPLE

Romania is situated in the southeastern part of central Europe. It has a land area of over 238,000 square kilometers and a population of over 22,680,000 inhabitants¹. Romania is divided into 41 counties and the capital, Bucharest. Most counties have a population of between 300,000 and 800,000 inhabitants. There are 264 cities, 86 towns and 2,692 villages registered in the country.

2.2 PUBLIC SECTOR DEVELOPMENT

Following the revolution of December 1989, the Romanian government sought to replace the totalitarian communist regime with a government based on democratic principles that promoted a market economy.

The period of transition in Romania between December 1989 and February 1998 is marked by the following outstanding characteristics:

- Critical introspection;
- Reform programs;
- Accomplishments;
- Hesitations and failures;
- New demands on policy and decision makers;
- Rising public expectations.

The transitional period witnessed a decline of centralized administration and the growth of

decentralized public services; a switch from a single-, to a multi-party system, (initially with a leftist predominance, but this changed to a mainly center-right wing orientation after the 1996 general elections), and an emphasis on the creation of a modern and efficient system of public administration.

During this period, a critical element of the administrative reform was the building of basic institutional structures to ensure the success of the government's policy objectives. Unfortunately, inadequate resources have slowed the pace of reforms. There is still a dire need to create the legislative, institutional, and administrative frameworks for central and local public administrations to implement these reforms. The main reasons for the failure to implement reforms can be blamed on economic recession, an over-burdened political agenda, and the lack of administrative training and experience

The 1991 Romanian Constitution incorporated many new democratic principles. Among other things, it stipulates clearly that citizens are taxpayers who contribute to the public budget. It also stipulates that the tax burden must be equitable. Article 72 of the Constitution includes the following provisions for public administration:

- The electoral system;
- The organizational structures for central and local governments and the National Defense Council;
- The civil service law;

- The solicitor's office;
- The legal structure for public ownership of property and natural resources (patrimony);
- The general labor system, trade-unions, and the social protection;
- The educational system;
- The system of local public administration and local autonomy;
- The establishment of exclusive economic areas;
- The adoption of laws related to the Ministry of National Defense, the Constitutional Court, the Legislative Council, the Intelligence Services, the National Broadcasting and Television services, and the Court of Accounts.

Laws and Other Normative Documents of Some Ministries

The national government consists of 18 ministries and another 17 national agencies. The Romanian central public administration is led by the government, with the Prime Minister as its head.

The ministries are headed by Ministers, State Secretaries and State Undersecretaries. (These functions are also found at the management level of non-ministerial state bodies.)

The Council of Coordination, Strategy and Economic Reform, managed by a Minister, was formed to coordinate the implementation of the reforms in accordance with Government Decree 706/1993. The structure of every ministry and agency is decided internally, then adopted by executive decree.

From 1990 to 1998, efforts were made to improve the public administration to develop

more complex tasks and duties, despite severe restrictions on financial, material, human and informational resources. After the first general election on May 20, 1990, a new government was established. It requested enhanced responsibilities in order to implement the economic reforms.

The significant trends in this period were:

- A 50% increase in the number of the administrative institutions between 1995 and 1998;
- The allocation of staff from some ministries to new agencies (as in the case of the Ministry of Industry and of the State Ownership Fund);
- New structures created to solve specific problems that continue to exist despite other institutions assuming their original missions and competencies (as is the case of the National Privatization Agency which still exists, although some tasks were taken over by the State Ownership Fund);
- The incorporation of the Financial Guard Corps (basically organized as an independent structure) within the Ministry of Finance.

Public Sector Structure

We can divide the public sector into three parts:

- State sector;
- Local government sector;
- Social insurance sector.

The local government sector is the largest of the three and is made up of 41 county councils, 264 municipalities (Municipal Councils) and 2,692 village councils. The county councils are primarily responsible for health

care, public transport, education, garbage collection, sports, culture, youth care, roads within their jurisdictions, and other local services.

At the national level, the state sector is made up of the ministries and central (or national) agencies. At the county level, there is a prefect who acts as the representative of the executive power. The prefect has special powers to control county administration, including veto powers in certain cases. Many agencies also have county and local offices.

The Prime Minister's Office controls the head department for local public administration, which main function is to prepare legislation for local administrations to support local government management. Another important institution is the county level prefecture. The prefecture exercises control over local and county legal administrative actions. The prefecture can, for example, pursue the actions taken by the county mayor in court as a public prosecutor. The prefecture can also overrule and nullify local administrative laws. Local administrators can only dismiss mayors, director of public institutions, etc., with the expressed permission of the prefect overseeing their jurisdictions.

County prefects must report regularly to the Prime Minister's Office on the economic and social cultural development of their jurisdictions. Prefects also inform county councils about central government actions concerning county affairs.

The social insurance sector at the local governmental level typically has few employees. Its main function is to transfer benefits and allowances to retired persons and children. At

the beginning of 1996, the public administration system consisted of about 900,000 persons of which 83,000 were elected officials or specialized public servants at autonomous local public administrative authorities, along with another approximately 1,600 staff serving in prefects' offices.

Local Autonomy

According to both the 1991 Constitution and Law No. 69/1991, local public administration is based on local autonomy principles, on public services decentralization, and on the right of the citizenry to decide local problems by holding referenda. The Romanian parliament also ratified the European Charter on local autonomy through Law 199/1997 that came into effect in May, 1998.

In order to strengthen local financial autonomy, Local Public Finance Law No. 189 was adopted in November, 1998. This law establishes the norms regarding the creation, administration, use and control of financial resources by territorial-administrative units, as well as by public institutions and services of local interest.

The financial resources of territorial-administrative units are based on:

- Taxes, fees, and other fiscal and non-fiscal revenues;
- Capital revenues;
- Shared amounts from certain revenues of the state budget;
- "Piggyback taxes" on certain revenues of the state and local budgets;
- Transfers with special destination; and
- The state budget and from revenues with special destination (Article 2)

Local public authorities have the following responsibilities regarding the administration of local public finance:

- Preparing and approving local budgets in a timely manner;
- Assessing, collecting and pursuing unpaid taxes and fees, according to the law;
- Executing and adjusting local budgets throughout the fiscal year in order to balance revenues and expenditures;
- Exercising local control over selecting and providing local services, (including the option to pass such services on to certain specialized commercial enterprises or public services);
- Ensuring the efficient management of assets of territorial-administrative units;
- Exercising the authority to negotiate short-, medium-, and long-term loans and to pursue their timely repayment;
- Ensuring the efficient management of financial resources during the execution of the budget;
- Prioritizing, approving and making local public expenditures;
- Overseeing the preparation, approval, revision, and implementation of development plans by territorial-administrative units as the basis for the administration of local annual budgets;
- Overseeing the organization and supervision of financial control upon the institutions and services under the subordination of local authorities. (Article 5)

Decentralization

One of the most important responsibilities of public administration is clearly to provide pub-

lic services. In decentralizing some public services to the county level, Romania sought to maintain valued traditions while observing the experiences of certain European countries with more efficient and more democratic administrations.

The decentralization of public administration services has resulted in two distinct functional types:

- Some services remain the ultimate responsibility of the national government, but function within the territory of counties;
- Other services were transferred to the control of local authorities (e.g., primary schools, health, culture, and certain activities in the realm of public finance).

The initiative of fiscal decentralization was created to implement the Law of Local Public Finance. This initiative consists of a forum of representatives made up from associations of local authorities, from the Local Public Administration Department, from the Ministry of Finance, from the Court of Accounts, and from the specialized commissions of both houses of the Romanian parliament. The purpose of the forum is to debate and propose solutions for the problems that appear as a result of fiscal decentralization.

Several international and regional institutions are currently working to help Romania with transitional problems in these areas. These include the European Commission's PHARE program, which has promoted the development of local autonomy and the decentralization of public service since 1992; and the FDICEE program, which supports the fiscal decentralization initiative.

3 The Tax System

3.1 HISTORY

Romania has traditionally raised revenues through the following types of taxes:

- Capital gains tax;
- Land tax;
- Turnover tax;
- Wage tax;
- Tax on professions and trades;
- Global income tax;
- Customs tax;
- Stamp duty;
- Luxury duty;
- Sales tax—followed by value added tax;

Local Taxes and Duties

Published statistics about local taxes did not substantially appear until 1924. In that year, the initial budget estimations of towns and villages were published. The first local taxes and duties were established by the Organic Regulations, were introduced as “the tenth part” (*zeciuiala*); effectively a medieval tithe on the peasantry, (10% of all earnings were given to local powers), as well as taxes for alcohol and tobacco.

Local taxes and duties were regulated by the *Law of Maximum Local Taxes* beginning in 1923. (This was a revision of a law with the same title, first issued in 1903.) The 1923 law established 49 kinds of taxes and duties that could be raised from counties, towns and communities, under the approval of the Ministry of the Interior.

In 1929, the Law of Local Public Administration was adopted, laying down the principles of decentralization and local autonomy.

Until January 1, 1991, companies were required to comply with a complex fiscal system that applied different taxes according to the structure of the organizations. Thus, state-owned enterprises paid progressive taxes based on profit. Consumer cooperatives and economic companies of public organizations paid a proportional income tax. Small companies and private partnerships paid a progressive profit tax, and trade companies with foreign partnerships paid a flat rate profit tax.

Thus, taxes owed by the legal persons differed not only by the number of tax rates, but also by the level of the rates, the taxable basis, the tax calculation and the elements of taxation. Consequently, for the same amount of profit, the different economic agents in various fields of activity owed different taxes.

3.2 DESCRIPTION OF THE SYSTEM

Taxes and fees constitute revenues for the state and local budgets used to provide public services at the national and local levels.

Tax on Profit (Corporate Tax)

Law No 12/1991 sought to establish a unitary legal framework regarding the taxes on

profit by legal persons. Since January 1, 1991, the tax on all legal persons is based on the amount of profits earned, regardless of the type of property or organizational structure of the taxpayer. The tax on profit was also a legislative simplification, with many previous regulations being consequently abrogated. The regulation elaborated the taxable basis of taxable subjects. It also established certain stimulating fiscal facilities.

Law 12/1991 can be considered as one of the most important measures of fiscal reform initiated after the revolution of December, 1989. Fiscal reform, as an important part of economic and social reform, works to build a coherent fiscal system that is fair, effective, and meets the requirements of the transition to a market economy.

The tax on profit is relied upon as a source of income for education, public health, culture and sport, national defense and public order, social and environmental protection. It is also being used to finance some activities and economic objectives declared in the national interest, especially infrastructure projects.

The fiscal efficiency of the tax on profit is generally low because there are still too many loopholes allowing for tax evasion. However, evasions could definitely be reduced through better organization, improved management of economic agents according to the priorities of the Law for accountancy, and through the enforcement of the sanctions established by this law. Nevertheless, in the 1995 budget, the tax on profit was drafted at 4.284 trillion Romanian lei (ROL). (This amounted to 55% of the revenues collected through direct taxes.)

Government Decree No. 70/1994 also seeks to use the tax on profit to promote economic

development. A relatively moderate rate is applied (38%) for non-agricultural activities, with a lower rate (25%) applied for agricultural activities.

Taxable profit is calculated as the difference between income (including profits from any source), less the expenses incurred in order to make profits in a fiscal year, plus non-deductible expenses.

Such deductible expenses, as a rule, are only those related to the yielding of income, or those considered deductible in accordance with relevant legal provisions. Moreover, if an expense is related to several activities, it should be distributed to the respective activities.

An example is the law for the state budget for the year 1997, No. 72/1997, which, in Art. 49 states that any expenses having the following sources are deductible when the profit tax calculation is made:

- Allocations for investments from the state budget, local budgets and budgets of special funds as capital expenditures;
- Revenue granted by the State Ownership Fund in order to make investments necessary for restructuring, recovering and making the trade companies profitable, according to the Law for the Privatization of Trade Companies, No. 58/1991;
- The sums granted by the State Property Fund to the private trade companies, according to Law, No. 55/1995, in order to accelerate the privatization process;
- The losses and the income respectively, resulting from the curtailing and the canceling of debts or claims registered in the conciliation agreements approved according to the provisions of the Government Decree, No. 13/1995, approved by Law No. 119/1995.

Non-deductible expenses are:

- Taxes on profits, including taxes on any income earned abroad;
- Fines or other penalties imposed by Romanian or foreign authorities;
- Expenses for protocol, advertising or other publicity which exceed the limits described in the annual budgetary law;
- Funds used to make up or increase fiscal reserves and provisions above the legal limit, except for those made up by banks to a maximum of 2% of the balance of the credits given and the reserve fund, according to the legal provisions. (This also extends to the reserve fund as far as 5% of the annual pre-tax profit, until it is equal to a fifth part of the registered share capital);
- Revenue exceeding the limits of expenses considered deductible, according to the annual budgetary law.

Charitable and other such donations are deductible to the extent that Law No. 32/1994 provides.² Limits of the deductible expenses are applied monthly. (The maximum limits of deductible expenses are the same for both enterprises and individuals.)

Amortization and the depreciation expenses are included in the operating expenses, and are calculated by applying the amortization rates for the input values of the fixed assets.³

Calculation and rendering evident. The taxable profit and the tax on profit is calculated and rendered evident monthly, cumulating from the beginning of the fiscal year. Government Decree No. 70/1994 initially established this rule for small taxpayers, but it was applied to all taxpayers through Law No. 73/1996.⁴

Tax curtailment. Initially, Government Decree No. 70/1994 provided the curtailment of the tax on profit by 50% only for the modernization of technologies. Law No. 73/1996 extended the curtailment to the handicapped, exports, and privatization.

According to Article 7 of Government Decree No. 70/1994, (republished), taxes on profit are curtailed as follows:

- Proportionally to the number of persons considered handicapped with regard to their physical and intellectual ability; for tax-payers with more than 250 employees who created specially organized protected jobs, and/or who have at least 3% of their staff made up of handicapped persons;
- By 50% for the tax-payers with income from the exportation of the goods produced by themselves, from international attendance, for the share of the taxable profit which corresponds to the amount of this income;
- By 50% for the profit used during the current fiscal year for the modernization of manufacturing technologies, or for the extension of business activities in order to make extra profits, as well as for investments in environmental protection, meaning corporeal and non-corporeal assets that can be amortized, including those of credits for investments.

Government Emergency Decree No. 31/1997 instituted a new policy of foreign investments in Romania. It also includes some fiscal facilities for each category of foreign capital/assets, direct investments, investments through the purchase of stock managed by the State Ownership Fund, in trade companies that are to be privatized, and portfolio investments.

Table 1

Tax on profit (according to the structure of the state budget) [million ROL]

	1991	1995	1998
Revenue – total	496,778	12,888,289	67,215,500
Current revenue	490,628	12,875,289	62,681,000
Fiscal revenue	479,395	12,454,463	60,677,900
Direct taxes	278,887	6,340,560	22,714,200
Tax on profit	104,865	2,791,276	10,845,600

SOURCE: Monthly Bulletin, Ministry of Finance

In 1991, the tax on profit was 21.66% of total revenue. This decreased in 1998 to 16%.

Tax on Wages

The taxable wages are regulated by Law No. 32/1990 and include basic wages; supplementary incomes; various benefits, monthly bonuses, traveling allowances, etc.

Taxable income is calculated⁵ by first applying the following exemptions:

Monthly wages less than ROL 250 000

- of which:
- ROL 250 000 tax free
 - 1%—tax for unemployment fund
 - 3%—tax for pension fund

For example, for a total monthly wage of ROL 800,000, the tax is calculated as follows:

Deductions:	• tax-free:	ROL 250,000
	• 1%	ROL 8,000
	• 3%	ROL 24,000
	• Total:	ROL 282,000

Taxable income =
ROL 800,000–282,000 = ROL 518,000

The first tax rate tier is 21% on the first ROL 500,000 of incomes or,
21% x ROL 500,000 = 105,000

The second rate tier is 30% for on incomes between ROL 500,000 and 1,500,000:
That is ROL 18,000 x 30% = ROL 5,400

The total tax (the first part + the second part)
= ROL 110,400

According to the new Local Public Finance Law in force since 1999, the wage tax is calculated by the employer and paid to the Treasury located in each county by three separate accounts:

- 50% to the state budget;
- 35% to the city hall budget;
- 15% to the county council budget.

The allocations are established for each county apart by the adoption of the Public Budget Law, and represents the main way of relating local budgets to local needs and resources, which are very different between counties but which also differ between towns and villages within each county.⁶

Table 2
Revenue from tax on wages [million ROL]

	1991	1995	1997	1998
Revenue – total	496,778	12,888,289	40,778,000	67,215,500
Tax on wages	172,170	4,583,205	9,196,000	10,094,900

In 1995, tax on wages was 35,5% of total revenue while in 1998 it was only 15%.

- 11% for reduced rates;
- 0% for all products for export;
- tax-free for some goods and works of huge necessity for the population.⁷

Consumption Taxes

1) Value Added Tax

The value added tax is regulated through Government Decree No.3/1992. It has been modified several times, concerning elements such as procedures, taxable goods and services, and exemptions. The most recent changes related to the rate have been done in 1998. The administration of this tax is required by every economic agent or legal person who is obliged to pay the VAT with the following procedure:

For delivered goods, services, or accomplished works the VAT is added and included in the selling price. This is called the “collected VAT” and could be subjected to one of several rates:

- 22% for the majority of accessory materials;

The economic agent who receives goods, materials, services etc. pays VAT to the suppliers, called the “deductible VAT”. At the end of the month, each private company calculates the VAT to be paid by subtracting the deductible VAT from the collected VAT, and paying the balance to the state budget.

If the collected VAT is less than the deductible VAT, as a result of an exemption, and it cannot be recovered in the following months. This tax is called the “VAT receivable”, and it is taken from the state budget.

There is an entire methodology of conceiving, inferring, exempting, etc., to be looked for in the bookkeeping of the economic agent. The data are centralized at the Public Finance Direction, and the tax is paid on the 25th of the following month.

Table 3
Revenue from VAT [million ROL]

	1991	1995	1997	1998
Revenue – total	496,778	12,888,289	40,778,000	67,215,500
VAT	X	3,778,262	12,392.000	22,493,200

In 1995 the VAT was 29.3% of total revenues while in 1998 it counted for 33.5%.

2) Excise Taxes

While the general taxes on consumption, such as the VAT, exhibit common traits between countries, the special taxes on consumption vary in role and form from one country to another. Generally, the special consumption taxes are enforced at the same time with the general consumption taxes. A complex regulation of special taxes was introduced only since July 1993, through Law No. 42/1993,⁸ which also abrogated the prior legal provisions. This law regulates two forms of special consumption taxes; namely, the excise on some imports and, domestically, the tax on crude oil and natural gas production.

Either form of the special consumption tax is paid only once by the producers, importers, or purchasers. The tax rates or fixed taxes are the same for both the goods produced in the country and those imported. It is important to note that the excise taxes precede imposition of the value-added tax and are thereby included in the basis of VAT.

As a rule, the excises are provided in the list of Special Taxes on Consumption for Imported and Domestic Products included in Annex 1

of Law No. 42/1993. The law subjects to the excise tax economic agents, legal persons, family partnerships and authorized natural persons who manufacture, import, or commercialize any of the goods listed in the Annex.

Economic agents can take the form of autonomous administration, trade companies, private pharmaceutical companies, and other trade companies including those with foreign participation. Law No. 42/1993 also provides some exceptions to the imposition of the excise. (For example, if an economic agent were to purchase from a private producer goods comparable to items which are subject to the excise, then the purchasing agents would be subjected to the excise.)

If natural persons who are not registered as economic agents import goods which are then commercialized through economic agents, the economic agents would be taxed.

In the case of alcohol made by processing the imported or domestic new materials by natural or legal persons, the economic agent who processes the products should be the taxpayer.

The goods subject to excise taxes are provided in the List of Special Consumption Taxes (Excises) for Goods, which is Annex 1 to Law No. 42/1993.

Table 4
Excise tax revenues in Romania [million ROL]

	1991	1995	1997	1998
Revenue—total	496,778	12,888,289	40,778,000	67,5125,500
Excise duties	182,478	1,053,953	5,085,000	8,431,300

In 1995, excise duties represented 8.17% of total revenues. In 1997, these were raised up to 12%, and in 1998 to 12.5%.

3) Customs Duties

Customs duties are a way to stimulate exports and to expand economic cooperation with other states. The customs taxes have a key role in providing Romanian industries with raw materials and other scarce products. The customs system is conceived to stimulate imports, with priority given for raw materials and other materials necessary to maintain the national economy.

The customs duties applied to the goods and products which enter and leave the country, and/or to those which cross its territory. There are three customs duties categories: import, export and transit.

Import customs duties are widespread and have the highest fiscal efficiency because, under current international conditions, the imports of raw materials and manufactured products have considerably increased. Export customs duties are used especially by the states that own the mineral resources or raw materials monopolies, or the technological monopolies on some manufactured products. Transit customs duties are not widely used. Romania uses only import customs duties.

Those subject to taxation include companies with import activities and individuals authorized to conduct such kinds of operations. The unauthorized natural persons who import or export goods into or from Romania are subject to taxation when the goods exceed a certain value.

The General Department of Customs has produced a list of approximately 2,500 categories and sub-categories of products. This is updated and revised to take inflation into account when it is felt necessary.

Customs duties are regulated by the Romanian Customs Tariff and approved by governmental decree. Duties are expressed in percentages, according to the General Agreement on Tariffs and Trade (GATT).

The most frequent rates are between 10% and 30%. For example:

- Pharmaceutical products: between 5% and 10%.
- Fertilizers: 10%.
- Photographic-, and cinema-related products: between 15% and 30%.
- Plastics: 20%.
- Iron and steel products: between 10% and 15%.

In 1995, customs duties were 8.09% of total revenues and in 1998 they represented 8.54%.

Table 5
Revenue from customs duties [million ROL]

	1991	1995	1997	1998
Revenue—total	496,778	12,888,289	40,778,000	67,215,500
Customs duties	16,584	1,042,971	4,760,000	5,741,400

Local Taxes for Companies and Individuals

Property Tax

The budgetary classification refers to buildings and land taxes for the following:

- Taxes for buildings and land for buildings, owned by individuals (natural persons), paid to the local budget;
- Taxes for buildings and land for buildings, owned by companies (legal persons), paid to the local budget;
- Fees for using public and private spaces of the territorial-administrative units, paid to the local budget;
- Usage taxes on agricultural lands not being used for their specified purpose.

The tax on property is established by applying a tax rate against the values for buildings and land. The tax is payable monthly by legal persons, and quarterly by physical persons.

Physical persons, legal persons, family associations, agricultural associations, economic units owned by legal persons, as well as by political organizations, as well as by the community, public institutions, foundations and the like, branches and offices of alien physical and legal persons functioning in Romania and others similar units, are defined as taxpayers, according to Law No. 27/1994.

The Land Tax is established annually, according to a schedule, which sets the valuation rates for square meters of land. Municipalities may assign properties to one of four zones provided in the law. Taxpayers who are physical persons owning land free of buildings up to 1000 m², situated in towns and villages, are

subject to taxation. (For surfaces exceeding 1000 m², the land is subject to agricultural income tax.)

The zoning of land within towns and villages is determined by relevant local councils, depending on the distance from the center of the town or village, on the features of the land in question (i.e., whether a residential or industrial area), the distance from means of communication or other specific features. The taxpayers having the right of property for certain public lands being previously under the administration of or used by the state must pay the land duty, beginning from the first month after the change of ownership.

The tax on land situated in towns later officially declared “cities”, and villages likewise declared “towns”, is modified according to the new status of the effected land, beginning on the First of January of the following year after the change.

The tax on buildings for physical persons is based upon a valuation schedule provided annually by law. The building schedule differentiates by building construction and provides an elementary depreciation factor. The annual valuations, set forth by law, include prices for each major city as well as for towns, villages and smaller communities.

Local councils may alter the tax rate within narrow bands of rates provided annually by law. Additionally, the values may be annually adjusted by up to 50% by the local council.

The tax on buildings for legal persons is controlled by the net book value of the property where the acquisition prices without depreciation are recorded.

Tax on Means of Transport

Such taxes include:

- the tax on the means of transport of individuals—paid to local budgets;
- the tax on the means of transport of companies—paid to local budgets;
- the tax for public roads, paid by all the owners of means of mechanical transport on public roads (natural and legal persons), directed to the budget of the Special Fund for Public Roads.

These taxes are annually established through a government decree, revised according to inflation, and differentiated after the capacity of the means of transport, owners, including exceptions and reductions (handicapped persons, pensioners etc.). The taxes are paid quarterly in equal installments.

Other Taxes

Social Security Contributions

Any transition to a market economy involves addressing a lot of social problems. Trying to solve them in a favorable way requires legislative measures for social protection. That is why an essential part of economic and social reform involves comprehensive social security reform. The Romanian social security system is very complex and includes both private and public social security programs and funds.

The main social security funds are:

- the state social security fund, which includes, in principal, the social security revenues used for pensions, compensation for temporary incapacity to work and other

legal rights. This fund is included in the state social contribution budget;

- the fund for unemployment relief supported by the contribution of the employer, employees, cooperative members and subsidies for completion from the state budget. The fund is used to pay unemployment relief and allowances for support;
- the fund for supplementary pension, supported by the contribution of employees (5%);
- the fund for pensions and other rights regarding the former social security system, supported by the contributions of insurance organizations, economic agents and from other sources;
- private funds for pensions (SAFI).

The main sources for state social insurance revenues are the payments of the legal and physical persons who hire employees. These payments are supported from the production funds, and in case of public institutions are supported from the taxpayers subject to taxation. The contribution for state social insurance is due from legal persons, natural persons authorized to pursue independent activities. Therefore, in the Romanian legislative system, employees are not subject to taxation for this contribution.

Other Taxes

Other taxes and duties, although representing a small amount of money for the budget, are still diverse. These are rarely paid, and not by everybody.

Other taxes and duties paid by natural persons:

- the stamp duty over inheritance and other stamp duties from the population; that go to the local budgets;

- other kinds of local duties: fees for resorts, and fees for access to the public market-places that go to the local budgets;

Other taxes and duties paid by legal persons:

- Fees for using the forestry areas for different works;
- Stamp duty for issuing different licenses;
- Taxes on official measurements;
- Taxes for patents and registering trademarks;
- Consular fees;
- Fees on laboratory analyses;
- Fees on examining drivers, issuing driving licenses, and other taxes regarding traffic on public roads;
- Fees for advertising. The taxpayers who need advertising services on billboards, means of transport or posters for cigarettes must pay a 20% duty of the contractual value as taxes, going to the local budget. (These taxes are also applied to alcohol, on the same terms.)

Almost all taxes and duties of this kind are allocated to the state budget.

Fees on services carried out by harbor masters and on issuing transport licenses for international traffic are paid to the qualified agencies at either the moment services are performed, or when licenses are granted. (These are part of the state budget.)

Fees on laboratory analysis, subsidized to non-medical institutions, are part of the state budget.

Taxes on agricultural income should be paid to local budgets by peasants and farmers, by agricultural associations established on cultivated fields, on crops, or according to book-keeping records.

All taxes and duties under the category of "others" are paid at the moment of soliciting the service or activity.

In 1995, these taxes amounted to about 3.16% from total revenue, and in 1997 showed a slight increase to 4%.

Table 6
Revenues from other taxes [million ROL]

	1991	1995	1998
Revenue – total	496,778	12,888,289	40,778,000
other direct and indirect taxes	3,298	407,820	1,979,000

4 Fiscal Policy, Central and Local Budgets

4.1 FISCAL REFORM IN ROMANIA

For obvious reasons, Romania before 1989 had no fiscal system worthy of the name. Budgetary incomes were created not through taxes, but from instantaneously taking a percentage of the profits of state-owned entities and the taxes on wages paid not by employees, but by companies.

Romania is still far from achieving a modern fiscal system, but there have been certain attempts at staging a workable system, the virtues of which are only now becoming evident. Three clearly definable stages in this development occurred between December 1989 and 1995. The first (December 1989–December 1990) involved abolishing a majority of existing laws. The second (1991–1992), saw the adoption of some new fiscal rules (i.e., the wage tax, the profit duty, the public finance law). The third stage began in 1993 and continued to 1999, through perfecting the actual fiscal regulations and setting up the value-added tax.

We should point out the incapacity of the Romanian fiscal system to resist the need for state budgetary incomes, as well as the fact that all the budgetary exercises of the last years ended with deficits. The deficits haven't been a result of political options related to a way of guiding the national economy, but because of the weakness of the national fiscal system. They must

also be linked with the sorry state of the Romanian economy in recent years, especially regarding the continuing, convoluted role of the state in overseeing economic development.

Put simply, Romania still does not have a modern fiscal system. This conclusion is based on the idea that a fiscal system is not only a sum of taxes introduced through legislation. It is rather a dynamic link between responsibilities within the socio-economic system. On the other hand, as we discussed earlier, taxes represent budget revenues and have a regulating role in the economy.

For Central and Eastern European countries struggling to enact comprehensive and positive fiscal reforms, there are two prime challenges:

- 1) Finding the financial means to cover public expenses, using tax revenues as a macro-economic fiscal link, and;
- 2) Building a modern fiscal system, and then harmonizing it with Western fiscal systems in compliance with relevant European Union-integration masterplans.

This second aspect offers a solution for building a fiscal system in Romania. It has to be in agreement with those in effect within the existing European Union which, although there are definite differences between EU-member countries, are fundamentally similar in structure.

Organizing a fiscal system requires three main steps:

- establishing its principles;
- establishing a legal jurisdiction;
- making it practically functional.

If we compare these steps with the situation at the beginning of the Romanian market economy after 1989, it is clear that only the second step has been accomplished. There are some ready explanations for this situation, of course. But these can't entirely explain the woefully slow pace of building an efficient and modern fiscal system.

In the opinion of some experts, tax reform was required in Romania in the earliest post-revolutionary stages in order to ensure adequate budgetary incomes, while also raising prices as little as possible because of the difficulty of modifying the short-term tax administration in a short period of time. (It was felt at the time that temporary adjustment of certain fiscal instruments was of more urgent concern because of the immediate need to stabilize the economy.)

The main means and targets for fiscal reform are:

- the reform of the excise tax and its use as a preliminary stage for introducing (in July 1992) the value added tax;
- the implementation of the tax on profits;
- the implementation of the wage tax;
- the implementation of the tax on capital gains;
- the implementation of customs duties;

Researching the status of the Romanian fiscal system in the last decade, we think that the experience gained during these five years of trying to build a Romanian fiscal system proves that too often there is an arbitrary and

subjective application in such matters as introducing new taxes, establishing taxation levels and tax quotas, evaluating tax exemptions and the impact of a new tax on the economy and society, etc. Believing that the Romanian fiscal system built in successive stages after 1989 lacked (and still lacks) certain fundamental principles and options, we stress that we are certainly in favor of discussing with the Romanian parliament general principles of the fiscal system to be applied in the nation, the government having to accomplish it in accordance with national public budget estimations.

For drawing a Romanian fiscal system in agreement with the targets of the fiscal policies, a new set of measures is also required:

- diversifying the structure of the tax system by passing to the tax on global incomes of physical bodies (as a necessity determined by reasons of equity between tax-payers and needs for fiscal incomes, and of being in harmony with the actual world tendencies) and other taxes for market economy (inheritance and capital gains taxes, etc.);
- rebuilding the tax system, having as a target an increase in the tax basis, but with decreasing tax rates;
- simplifying the fiscal code, without which no fiscal law could have overall positive effects;
- developing the fiscal system—not through increasing the number of employees, but through training and hiring qualified specialists in the field;
- simplifying tax administration by using computers and new taxation techniques adequately and consistently.

All these resolutions should be dynamic, because any fiscal system must follow the devel-

opment of the economy to be a real help and not a hindrance. It must be in front of or behind economic development, as economic policy dictates, and fiscal policy makes practically possible.

4.2 BUDGETARY DEVELOPMENTS AT CENTRAL AND LOCAL LEVELS

The general objective of economic politics in the mid-90's was macroeconomic stability. Budgetary politics was to be subordinated to this objective through maintaining the general budget deficit within certain boundaries, (i.e., those that could be financed without leading to inflation).

In order to accomplish this objective, the authorities established a set of measures, as follows:

- the implementation of structural policy for reducing the fiscal deficit in enterprises;
- the strengthening of financial discipline, especially in state enterprises which generate losses and/or delay payments;
- the continued restructuring of the fiscal system, mainly through updating income tax legislation in order to achieve universal taxation, as well as through periodically adjusting the level of indirect taxes (VAT, customs duties), based on domestic economic evaluations;
- the careful calculation of expenses, according to both domestic incomes and foreign financing.

At first, in order to release the pressure made by the internal pressures created by the mid-decade current account deficit and by the aim of supporting economic reform, the general

budget deficit was established at a rate of 2.2% of GDP (compared to 2.6% in 1995). In execution, the general budget had a basic deficit of effective payment of ROL 4.29 trillion (3.9% GDP in 1995). Most of the remaining obligations such as salary, and interest rate payments led to a general budget deficit according to engagements increased from 3% in 1995 to 5.8% in 1996.

Generally, in 1996, economic policy was shaped under intense public pressure. This meant a relaxation of other policies compared to the initial stated objectives of the Romanian government, as well as compared to the stand-by agreement with the IMF in December 1995.

The Structure of the Budget Deficit December 31, 1996:

- The National Public Budget (–ROL 5,516 trillion) (–5.0% from GDP)
 - State Budget (–5,359.2) (–4.9%)
 - Local Budgets (+43.3) (+0.0%)
 - Social Security Budget (–200.4) (–0.2%)
- The State General Budget (–ROL 4,290.3 billion) (–3.9% from GDP)
- Extra-budgetary Funds (ROL 1,226 trillion) (+1.1% from GDP)
 - Unemployment Fund (+844.5) (+0.8%)
 - Fund for Supplementary Pension (–21.0) (–0.0%)
 - Other Extrabudgetary Funds (+402.5) (+0.4%)

Table 7
Principal budgetary indicators, 1992–1996 percentage in GDP

	1992	1993	1994	1995	1996
State Budget Revenues	22.6	18.9	17.8	17.8	16.8
State Budget Expenditures	27.0	21.5	22.0	21.9	21.7
State Budget Deficit	-4.4	-2.6	-4.2	-4.1	-4.9

The 1996 budget showed the expansionist character of fiscal policy rather than the austerity which was the basis of the initial program. The major expenditures for agricultural financial support, (without many positive results), the increasing of the expenses for wages in non-performing fields supported by the state, and the cut in revenues, due to the non-payment of the state obligations gave the budgetary policy a risky, inflationary character.

The State Budget

The revenues and the expenditures of the state budget, as a component of the GDP, continued to have a decreasing tendency. For general revenues, the evolution was greatly determined by the incapacity of the authorities to impose a sense of civic responsibility among taxpayers. This evolution confirms the lack of commitment of the state in supporting the economy.

The 1996 revenues for the state budget represented 16.8% of GDP, at a rate that was lower than for the previous year. The main reasons for this evolution were the lack of financial discipline of the firms, as well as the enforcement of certain bills that established customs

duties exemptions, payment delays and value-added tax exemptions.

In execution, the collected amount of direct taxes represented 102.7% of budget revenues in 1996, while indirect taxes represented only 96.8%. Out of the latter figure, the collection of value-added tax amounted to 98.7%, excise tax and duties were 98.3%, and customs duties amounted to 89% of total central budget revenues.

The expenditures of the state budget in 1996 were almost at the same level as the previous year (21.7% of GDP in 1996, compared to 21.9% the previous year).

The state budget allocated most of its expenses to support the social-cultural area (29%). Expenditures for economic activities were still significant (26%); followed by outlays for defense, public order and national security (16%) and transfers to regional budgets (13%).

In 1993–1995, state budget expenditures were closely tied to revenues. However, the expenditures were not blocked for wages, pensions, allocations for children or interest payments. This mechanism, even if efficient for keeping the budgetary expenditures under control,

proved itself to be responsible for decreasing both overall living standards and the quality of public services. In 1996, this mechanism was abandoned, and a new order of priorities for allotting budgetary credits was adopted.

The state budget calculated on the basis of effective payment at the end of 1996 representing 4.9% of GDP, compared to 4.1% in 1995. The majority of the deficit was financed by issuing *Treasury certificates*. This amounted to 11.7% of the total amount, covered through issuing treasury certificates.

The primary deficit represented 3.3% of GDP, compared to 2.8% the previous year. The interest payments added to the public debt increased at a rate of 1.6% of GDP, compared to 1.3% the previous year.

The imbalance of the state social security budget was observed for the second year consequently; payment delays, non-payment of the social security contributions by the firms which use personnel without working contracts—in some cases the financial difficulties of some tax payers—were the main reasons of these evolution. In attempting to re-balance the budget, the government should take severe measures in order to discourage the nonpayment of social security contributions, as well as the illegal practice of using an “underground” labor force.

The Fiscality Rate in Romania

Between 1993–1997, the reform of the fiscal system was continued mainly by up-dating the income tax, in view to introduce the global income tax and by periodical adjustment of the indirect tax levels (VAT, excises, customs duties) depending on the economic evolution. Over all, in 1996, sound fiscal policy was sacrificed to electoral political pressures, and these policies were severely relaxed.

Apparently, Romania is a country with a middle level of fiscality diminishing in the last few years. In fact, diminution could be explained by the financial indiscipline which increased and gave to the state budgetary policy an imprudent and inflationary character. In the case of fiscal revenue, this evolution was determined especially by the incapacity of authorities to impose to the taxpayers a legal behavior but in the case of expenditure the evolution confirm the state disengagement. In 1996, the revenue of the state budget represented 16.8% of gross national product, 1% less than in 1995. The main causes of this evolution were the financial indiscipline of economic agents and also the adopting of some normative acts which regulated the exemption of the customs duties, the postponement of penalties and the new exemptions of VAT payment.

5 Tax Administration

5.1 INSTITUTIONS INVOLVED IN TAX ADMINISTRATION

The fiscal institution represents the state institutions that are in charge of applying fiscal laws. To be precise “the fiscal institution is nothing else but the means through which the state applies the fiscal laws”⁹.

The laws on public finance assign duties and attributions about establishing and levying the taxes and duties for the central and local public administration. Generally, the public administration is responsible for the enforcement of laws, as well as determining the practical means of establishing, checking and raising taxes and duties.

The general responsibility for the executive activities in the field of public finance is enforced by the government, as part of its constitutional responsibility to achieve “the general ruling of public administration”¹⁰.

The Law for Public Finance¹¹ also details the duties of the government regarding overseeing budgetary regulations, after the state budget and the state social security budget have been adopted by the parliament. The government has the obligation to execute the national public budget and to establish ways of improving the financial balance periodically.

The Ministry of Finance is in charge of allocating resources from the state budget after it is passed by parliament. It is also charged with

maintaining foreign currency reserves. In carrying out its duties, the Ministry of Finance has many important prerogatives for ensuring proper procedures regarding its responsibilities for enforcing fiscal policy, collecting taxes, assessing taxable incomes, imposing duties on legal and natural persons, organizing and enforcing fiscal laws, taking money from the accounts of legal entities to the state budget, and imposing penalties for late payments.

The Ministry of Finance is able to approve stoppages and exemptions for payment delays, as well as rescheduling phased and postponed payments. The Ministry can also offer taxable individuals and entities many other fiscally advantageous conditions. (As an extraordinary, recent attribution, we should mention the obligation of the Ministry of Finance to organize the central treasury of public finance, as well as to prepare treasurers inside the general departments of public finance, financial administrations, town and village fiscal bodies. This will ensure the execution of the state budget, as well as of the social security budgets and of the local budgets, on the basis of a systematic assessment of each taxpayer.)

The local and county councils, as autonomous administrative authorities, ensure the administration of the villages, towns and counties’ finances. For this reason, councils are able to approve the annual budgets in which the revenues and expenditures of the regional-administrative unit are established for each financial year.

The local councils have adopted fiscal obligations to raise sources for local and county budgets as felt necessary to increase the level of taxes and duties at a maximum rate of 30–50%. This has created the option of using revenues for newly created services at a local level. At the same time, Law No. 69/1991 and Law No. 189/1998 give local and county councils the right to establish special taxes for the smooth functioning of local and county public services.

The conditions for raising these special taxes, (conditional to citizens' approval), as well as procedures for allocating such tax revenues, are established through regulations approved by the local and county councils, as deemed necessary. Local and county councils have the competence to offer fiscal special conditions, according to the regulations covering phased, delayed, or exempted payments as discussed above regarding local taxes and duties.

The General Directorates of Public Finance

The General County Directorate of Public Finance and State Financial Control, including the Financial Guard, are responsible for control over tax payments and the bookkeeping accounts of companies. Subordinate to the Directorate is the Financial Administration Office has clearly defined responsibilities in executing the state budget, the social security budget and the local budgets by controlling public revenues collected from individual or corporate taxpayers.

The Treasury Departments of Public Finance are organized inside the general departments of public finance (county councils and the coun-

cil of Bucharest), the financial administrations, and the village and town fiscal bodies. They are in charge of establishing how to deduct and levy the taxes and duties owed by the economic agents and the other tax payers in due time, and also with applying penalties if the payment terms are not followed. In order to achieve these responsibilities, the general obligation of taxable parties to pay revenues owed to the state budget, the social security budget and the local budgets on time has been established.

Meanwhile, the ministries, the other central bodies, the local and county councils, (including the public institutions subordinated to them), have the obligation to accomplish the operations of allocating the revenues and of preserving them within the regional treasury.

The Court of Accounts, as a supreme financial control and financial legislation body has important fiscal duties. The Court of Accounts accomplishes a control function over the way of forming, administrating and using the financial resources of the state and of the public field.

The Court is responsible for detailing allocations within the state budget, the state social security budget and regional budgets. It also must determine constitutional issues in using special and treasury funds, managing the public debt, and governmental grants for both internal and foreign credits.

The control is applied to every legal person regarding the way of fulfilling the financial obligations to the state and the local administrative units.

Regarding tax administration we should make a distinction between its levels:

- The central (national) level, represented by the Ministry of Finance, which coordinates the overwhelming majorities of taxes, either by direct collection of the taxes to the state budget, or by setting taxation criteria and bases for those having a local character;
- The local level, which consists of two sub-levels:
 - a) intermediate (County Directorate of Public Finance), which has the least responsibilities for taxes and duties;
 - b) local executive level—represented by the Financial Administration Offices, where “the second criteria of the central element of taxation” is applied.

the responsibilities related to local tax assessing and collecting. This is a very important step forward for fiscal decentralization, since it allows the local public authorities to increase and control their own revenues and expenditures. For instance, the property tax now represents more than 50% of local revenues.

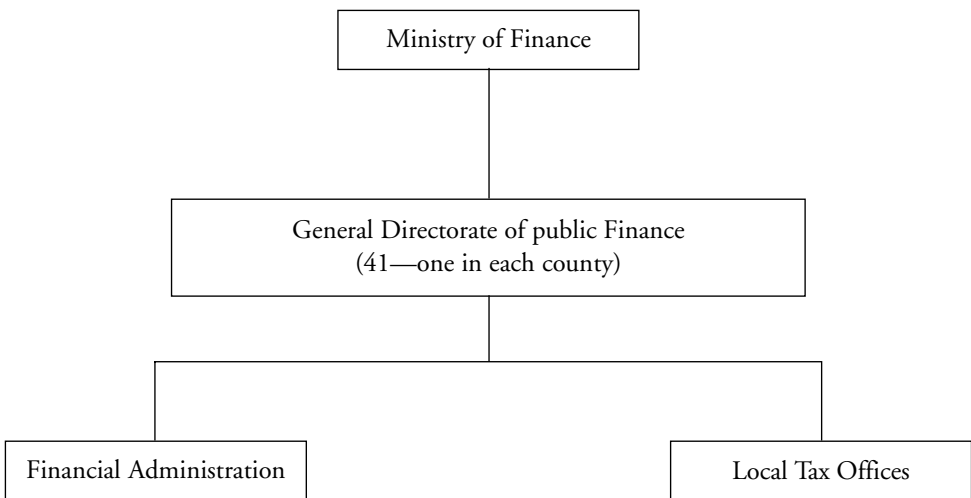
The gains made in local financial autonomy are still an ongoing process. Not all of the local taxes have been given to the local government units yet, despite frequent claims to the contrary.

Law No. 189/1998 on Local Public Finance and the modifications to Law No. 27/1994 on Local Taxes and Fees brought some changes in the structure above. Local government units, (city halls and county councils) have taken over from the Financial Administration Offices all

5.2 THE BASIC STRUCTURE OF TAX ADMINISTRATION

The typical organization of tax administration, according to Figure 1, through the General Directorate of Public Finance (DGFPCFS) (counties) and Financial Administration Offices (municipalities, communes, villages) cor-

Figure 1
Organization of tax administration



roborated with responsibilities concerning taxes and duties given to the territorial-administrative units, demonstrates the lack of any stimulating and very centralized character within this whole process.

We should mention here that taxes and duties in large amounts are centralized at the national budget and then redistributed to localities according to other criteria, in different amounts, different in time and distance, which gives them a different meaning they come from the state level—although these have been created by the effort of local governments, too.

In this context, the aims and objectives of financial administration (both as a body and as an activity) are seen as being:

- setting the state budget;
- assessing of the national income;
- collecting taxes and duties;
- ensuring equitable redistribution of the amounts collected at central level, for the territorial-administrative units according to their conditions;
- cooperating with the local administration;
- establishing, collecting and spending local taxes and duties.

One can notice that, even from the point of view of the board of financial administration, their objectives overlap, are opposed to each other and often diverge. But, above all, they are not consistent with the basic objectives of the territorial-administrative units (especially regarding respective administrative responsibilities).

As shown above, the activity of assessing and collection of taxes and duties requires many staff and implicitly much work, which, on an average—observed on larger samples—can be divided into:

- registering the new taxpayers, bringing up to date the existing ones in the fiscal register—8%
- processing the statements and the proper calculation of the tax owed—21%
- cashing the amounts from the taxpayers—25%
- taking potentially punitive actions, ranging from going to the taxpayer's domicile, imposing deductions and fines, launching lawsuits—20%
- audit, control, inspections—16%
- collection management—10%

In this way we come to the level of competence in carrying out the basis activity, and we find:

- Fiscal policy is carried out almost exclusively at central (national) level, especially through the restricting techniques, quotas, standards etc. of taxation; cashing some insignificant local taxes only is due to the city halls;
- Taxation procedures: assessing, collecting, pursuing, controlling etc. devolve upon the financial administration offices as authorities/bodies of the Ministry of Finance. There are also other institutions participating in this process, such as companies, public institutions etc., which contribute directly in collecting an important part of high taxes and dues (tax on profit, value added tax, tax on salaries and wages—this amounts to 75% of budgetary revenue);
- The local public administration looks after its own local taxes and dues, (which are usually very diverse but irrelevant from the point of view of their value). For this level, the administrative units cover a wide range of duties, including assessment, collection, control, enforcement, etc.

This aspect of the questionnaire (see Annex 3) also reveals the fact that an important part of local public finances, that is the administration of the levied taxes and duties remaining uncollected.

The institution of local taxes is in fact, a combination of centrally-organized structures, built vertically, and local decentralization only for activities such as setting, collecting and redistributing the taxes (although, through the hierarchy of organization and subordination, everything is still ultimately decided centrally). The relevant local public administration is then entitled to exercise its powers, using the budgetary resources allotted to it.

In this way, the administration of budgetary resources shows a complete deficit with major differences between localities (Table 8).

This state of things is also the result of the fact that certain obligatory tasks are settled at the central level for the local public administra-

tion regarding taxes and duties. They represent a complex and comprehensive overall tax system, including:

- tax auditing;
- tax assessment and determining legitimate exceptions;
- collection of taxes and duties;
- compliance with directives of the state budget;
- enforcement of applicable tax codes;
- oversight of tax-related activities carried out by members of the judiciary.

(Regarding the procedures applied, there is neither a mistake, nor an *a priori* judgment of the excessively centralized character of tax administration, but the fact that the main concern is about tax *collection*, whereas the *distribution* of these sources of the local budget is primarily a matter of efficiency, essential criteria consistent with the promises made to the general public, is left aside. This is why many times the tax payer is only a payer, not a real beneficiary, of budgetary revenues.)

Table 8
Fiscality levels in tax offices interviewed

	Cities and Larger Towns	Other Localities
Aggregate budgetary allotments	10%	2%
Wide decision-making autonomy	8%	1%
Clear objectives	21%	6%
Criteria and standards of performance	3%	—
Assessment of the efficiency and effectiveness of the results	11%	3%
Cooperation with the citizens taxpayers regarding the results	2%	—

The answer to the hypothetical question: “can the institutions of public administration or those administering the taxes in the area under jurisdiction apply their own taxes?”, could therefore be elaborated as such:

- “yes”—but only for such small amounts and actions that these cannot be found in most local budgets. Or, alternatively;
- “no”—because budgetary revenues and expenditures are set by law or other governmental decisions, according to the so-called “budgetary classification”; the law also established acceptable differences in taxable sources, according to various criteria.

There is also another aspect of the issues—a permanent change of criteria of taxation, as well as the application of new taxes over time. This naturally complicates both tax collection and efficient, equitable revenue distribution.

In Romania, local organization of public finances is highly structured and hierarchical, starting from the city of Bucharest and county levels at the highest, and working downwards.

We can summarize the answer to the questions regarding the financial organizations as follows. In legal terms, local financial bodies are public institutions with their own management structures. These institutions are:

- the General Directorate of Public Finances and Financial State Control at the county level and in the municipality of Bucharest;
- financial administrations at the level of municipalities and districts of Bucharest;
- financial division in towns;
- tax collector’s offices and fiscal agents in communes and small villages.

All these bodies are managed and controlled by the General Management of Public Financ-

es and Financial State Control.

The organizational structure of the General County Directorates of Public Finances and Financial State Control covers:

- Treasury management with its services: treasury accounting; methodology; control and budget;
- Taxation management with its services: assessment, collection, control, and enforcement;
- Tax offices at local levels: administrative divisions and revenue offices;
- Management of financial state control with its services: financial control at state-owned companies and trade companies; financial control in public institution and economic private agents; financial control in tourism offices and services;
- The Financial Guard.

The General Directorate of Public Finance also has some autonomous services and departments. In Romania, the current territorial administration of public finances dates from 1992.

In response to the question, “would you enumerate here the aims and objectives of your tax administration?”, the answers received by the local investigation were very diverse, but still largely incomplete. As concerns these aspects, the subjects interviewed agreed with the stated aims and objectives of local tax management. It is about economic, social, financial objectives destined to correct and regulate certain situations. Interviewees were unclear regarding the goals and duties of local fiscal administrations. To offer clarification, we mention the functions of taxes and rates that are compulsory for taxpayers:

- contribution to the general funds for public services. These funds are used by the

state to finance general objectives and actions, useful to society as a whole, (i.e., financing public institutions, ensuring state reserves for economic actions and objectives, funding social and cultural institutions, etc.);

- redistribution of primary and secondary incomes;
- the principle of anonymity of the taxpayer. When it is accomplished unrealistically, it could have negative consequences with regard to jurisdictional responsibility and material incentives;
- economic and social regulation have different effects on organizations than on individuals. In the case of corporate bodies, prices and tariffs can be influenced by taxes and rates. Profitability and economic efficiency can be similarly influenced, also.

In responding to the question “are there common or parallel local tax offices dealing with central or intermediate tax affairs, as well as those of local governments?”, all answers were negative, except for one.

Diverse and disputed problems of “manpower distribution over following tasks” generated a great diversity of opinions. A source of a lot misunderstanding source was the terminology used in respective tables. Therefore, we consider it necessary to remember that in Romania, deconcentration and decentralization did happen. But we wish to make the following suggestions:

- deconcentration of some national public services to the services organized in the territory. For instance, the increasing competence of General County Management of Public Finances to approve investment projects more valuable than before 1989;

- decentralization of some national public services by the local autonomous authorities. For instance, the fields of secondary education, health, police and justice, culture, public finances.

In considering the competence level of fiscal activities accomplishing, all interviewed individuals agreed with the following assertion: fiscal policy is a part of central administration activity.

The other competencies (assessment, collection, enforcement, audit, inspection, appeal) belong to the fiscal administrations of municipalities, counties, towns and villages depending on the level of activity.

In fact, 50% of interviewees did not answer this question at all. One of the reasons could be the difficulty in finding the right phraseology in the Romanian language. Interviewees who did answer adopted the following terminology: for the competence level “intermediate” they used the General County Management of the Public Finances and the Financial State Control which include the Rates and Taxes Direction and for the “local competence level” they used Local Financial Administration”.

To the requirement “Describe the tasks which are centrally set to local tax administration” were given 80% incomplete answers and 20% non-answers.

In Romania, a macro-fiscal program exists to assure a balance between national and local budget levels. This has been changing on the basis of economic and social priorities regularly. It also describes the procedures of tax assessment, collection, enforcement, and auditing for the fiscal administrative offices and

divisions. Moreover, fiscal offices handle tax returns. In case of delays, they can impose fines impose fines in the case of unwarranted delays, as they see fit.

In response to the request “briefly enumerate the control and review devices operated by local authorities”, sixty percent of those asked did not reply, but answers offered included “administrative audit”, “education and assessment of staff”, “reports analyses,” and “following state budget formation requirements.”

We consider it necessary to complete and to define the above aspects more clearly. Therefore, according to the principle of the separation of state powers (to whom Romania’s 1991 Constitution grant a certain authority), financial control is divided fundamentally into three branches: legislative, juridical and administrative.

Romanian tax jurisdiction is based on principles according to the bond of fiscal debt drawn up by authorized employees. Fiscal bodies cannot be modified or canceled directly, because their legal control is one prerogative of financial bodies.

As regards local taxes and rates, the Ministry of Finance, General Directorate of Public County Finances, financial administrations, fiscal services and divisions have obligations to control returns of revenues and the collection of taxes in accordance with Law No. 27/1994. If there are differences found between taxes and rates, measures can be taken to recalculate and collect them upon request.

During the exercise of its duties, the Ministry of Finance assures the application of its fiscal policy as concerns guidance and control of legal taxation procedures, the organizing and

the exercising of fiscal jurisdiction, the transfer from the legal person’s accounts to the natural person’s accounts of taxes unpaid in time, included any imposed fines.

Treasuries of the General Management of Public Finances and State Control and also the Directorate of Financial State Control have related duties on the local fiscal control level.

Romania’s Court of Accounts as a supreme body of financial control and jurisdiction has important fiscal duties. Auditing is a final form of control over the local administrative units. By these audits, the Court of Accounts determines if fiscal revenue was legally established and assessed under the terms provided by law (Art. 80(b), Law No. 94/1992). Therefore, the Court of Accounts oversees the accounting and tax-collection procedures. The Court decides on matters of debt transfer in cases of non-compliance. The ultimate decisions of the Court of Accounts are executed by local bodies of the Ministry of Finance.

In response to the question “can the decentralized central tax administration adopt to the local needs of the tax process?”, 60% of answers were positive, 20% negative and 20% non-answers. From the total of positive answers, 40% added that this is possible only by the acceptance of central fiscal administration.

If fiscal adjustment is made under the terms of the law (according to Law No. 27/1994), fiscal consent from the national government is no longer required.

It is very disappointing that for the final question of part B in the questionnaire, only 20% of the interviewed persons answered. The 80% non-answers proved that important fea-

tures of the regulation of the fiscal system in Romania are still largely unknown. The positive answers mentioned 10 important changes of local fiscal legislation in the last five years.

However, we can say that there weren't major changes concerning local fiscal regulation in the 1993–97 period. During this time, fiscal legislation was passed with the view of simplifying legal regulations dealing with local rates and taxes. The central reference point is the adoption of Law No. 27/1994 concerning local taxes and rates which instituted a new system of taxes and rates, according to the provisions of Romania's Constitution (Art. 119), and of Law No. 69/1991 concerning local public administration.

In fact, the revision of the legislative framework of local taxes and rates according to the necessities of transition to a market economy and the constitutional principles of local autonomy and decentralization began much earlier under Government Decree No. 257/1991 concerning the change of tax level, and by the Law of Local Public Administration No. 69/1991.

Afterwards, as Romanian economic reform extended into the financial arena, the government adopted other decisions and laws which canceled the previous ones. Thus, Law No. 45/1992 annulled Government Decree No. 257/1991.

The Government subsequently issued Directive No. 15/1992 regarding local rates and taxes and Decree No. 26/1992, concerning taxes for the issuing of construction permits.

Lastly, Governmental Decree No. 10/1993 concerns the decision to charge taxes for certain services provided by natural or legal persons.

In our opinion, frequent changes of the fiscal regulations generate confusion regarding the universal application of fiscal legislation. Moreover, it tends to generate distrust and suspicion towards the revenue-gathering system as a whole, not least essentially resulting in uncertainty among actual or potential foreign investors. (It is important to note that most regulatory changes were enforced by the executive branch, not by the parliament.)

In this way, the executive becomes a *de facto* legislative body, diminishing parliamentary powers. But governmental directives cannot have the same level of impact as laws passed in parliament.

By way of example, take Governmental Decree No. 70/1994 regarding income tax. Though issued in August 1994, it was enforced only from January 1995. By the end of the same year it still had not been approved by parliament. This is why we feel it would be necessary to give up the legislative duties of the executive in such types of fiscal matters. It would be better that fiscal acts be adopted only by the two houses of parliament.

Under Law No. 10/1991 (Article 8, Paragraph 2), it was established that after the state budget is passed by parliament, the executive is responsible for enforcing all budgetary provisions. By this permanent prerogative, laws can provide supplementary rights and obligations to the executive. For instance, Law No. 22/1991 created an executive obligation to present to the parliament "quarterly reports and proposals regarding fiscal and budgetary measures". By this law, the executive is also authorized to distribute (much-needed) funds in the areas of defense, public security, agriculture, health, education, research, cultural

affairs, etc. These legal provisions are, in fact, an important legislative delegation to the executive branch. In this way, it can adopt

urgent budgetary measures which must be discussed thoroughly afterwards by parliament.

6 The Main Functions of Tax Administration

6.1 REGISTRATION

In Romania, population censuses are conducted by the Ministry of Interior through its Police Department. Since 1996, each individual resident in Romania has been assigned a personal code. A person born August 20, 1959 might have the following personal code: 1590820-40040-8

National population growth is shown in Table 9.

Any legal entity must be registered. There are several different kinds of legal entities (joint-stock companies, associations, foundations, etc.) and the responsibility of keeping registers is shared by different agencies and authorities. (The basic register of joint-stock companies is kept by the Trade Office.)

There are also registers for land ownership and for buildings of all kinds (farms, apartment buildings, houses, etc.) which are kept by tax offices in cooperation with the profile departments of town halls.

At the same time, all means of transportation need to be registered, and all motor vehicles must have registered license plates. The registers for cars is kept by the Romanian Auto Recording Agency in cooperation with the Police Department.

Registering Declarations

“Registering” is defined as the form filled in by the tax payer, in which he declares the data concerning his subjection to taxable revenues earned during the year, necessary to the fiscal authorities in order to calculate the income tax and the other duties.

All taxpayers have been and are obliged to produce declarations of registering in the case of local taxes and duties, too. So, in the situation of building taxation, the state units should give declarations within 15 days since the day of reception of the subject to taxation objects or since the day in which there have occurred changes that lead to the modification of the declaration. For buildings belonging to natu-

Table 9
Population in Romania [x 1000]

	1966	1981	1990	1995
Total	20,252	22,352	23,185	22,680

ral and legal bodies other than state-owned units, owners are obliged to file returns with the relevant fiscal authority within 15 days of the appearance of the practical cause of registering or of modifying it. (This also applies to taxes on land or on means of transport.)

Since 1989, the Declaration of Registering began to play an important part again in national budgetary formation. We should mention, for example, Law No. 12/1991 regarding “turnover tax”, establishing the obligation of the juridical bodies, subject to taxation, to deposit the Declaration of Registering of the profit gained during the month for which they pay the tax and the overall profit of that certain year on a monthly basis at the local fiscal authority. The Declaration must be made within five working days of the date of paying the turnover tax.

We consider that it would be necessary to determine the content of the Declaration (i.e., the obligatory elements for establishing the taxation and determining the tax rate), as well as the terms for modifying them (i.e., through supplementary declarations).

6.2 ASSESSMENT AND COLLECTION

The notion of assessment includes all the necessary operations for establishing the amount of the annual budget to be allocated for public revenue. Obviously, this involves precisely determining the fiscal obligation. Assessment also implies identifying the subject and determining the object of public funds, as well as establishing the taxation basis, the legal quantum of assessment, and deciding what may constitute legitimate legal delays, and establishing the title of “fiscal collector” for the state.

The subject (taxpayer) is a natural or legal person who has certain fixed payment obligations to the public budget. The quality of subject is assigned to persons who have incomes and taxable goods. Any foreign and judicial bodies which have incomes and taxable goods in Romania are obliged to pay, generally, the same taxes and duties as Romanian natural or legal persons.

The object of the public income or the taxable matter is the economic phenomenon which creates a fiscal obligation, (i.e., personal earnings, the sale of goods, or certain legal actions that could be subject to taxation).

Determining the tax base is achieved through two operations: identifying the object of assessment and establishing its quantitative qualification, via tax audits, usually once a year. The correct determination of the object of the public income is very important from a political, economical, social, fiscal and juridical point of view because the amount to be paid by the tax payer into the federal treasury depends on it. Regarding the object of the public income, an important principle is mentioned. This is the principle of the “uniqueness of assessment”, according to which an object can be assessed only once (in the Romanian fiscal system, “double assessment” is illegal).

The taxation source represents the money from which the taxpayer gives a part for the public income.

Regarding the general audit, that is the quantitative characterization of the object of taxation (the taxable matter), there are two main methods: the “direct” estimation, based on probation and the “indirect” estimation, based on logical presumption.

The direct estimation could be achieved through the following procedures:

- *On the basis of the taxpayers' declaration*, (namely, on his registration declaration.) This means that the subjects of any tax assessment have the obligation to keep adequate documentation, (including thorough bookkeeping). They are also obliged to present a complete declaration about all taxable incomes, from which the relevant fiscal authorities estimate the taxable matter. This procedure has a built-in disadvantage; namely, it facilitates “dodging” taxation for a large part of what would otherwise be taxable income. This is because many declarations are blatantly fraudulent and all data gathered is thereby useless.
- *On the basis of the declaration of a third person*. Obviously, it is a natural or legal person who is obliged to disclose to the fiscal authorities the necessary data for estimating correct tax levels. This procedure is applied in the case of wage taxation, when the employer is obliged to declare salaries paid to its employees, then to calculate and retain the owed tax. This procedure is used, for example, in the case of dividend duties, when a company is obliged to present fiscal bodies with a formal declaration, and to calculate and to give the tax rate to the state in due time. This estimation could be applied only to certain fiscal categories.

The indirect estimation is achieved through several procedures, as follows:

- *On the basis of the external signs (marks) of the taxable object*. This procedure gives an approximate image over the value of the taxable object—(i.e., real estate, industrial activity, etc.) It does not, however, take

into account the person who owns the object. The procedure has the advantage of being simple and cheap, but also the potential disadvantage of resulting in an unfair assessment. It is used in Romania, for example, in the case of taxes on building or real estate;

- *On the basis of approximate taxation*, when the fiscal bodies, in accordance with the debtors of the taxable matter, give the object of assessment an estimated value. The procedure is applied mostly to on-site checking;
- *On the basis of administrative estimation*, when the fiscal body establishes the value of the taxable matter on the basis of orthodox methods, mostly in the case of auditing. (If the subject of assessment considers that the value established by the fiscal bodies is too high, he has the right to attempt to prove the contrary.).

The assessment rate shows the amount or the percentage which is applied to the taxable object and with which the public income, (the rate from the taxable basis to be taken by the public budget), is calculated. The rate of the public revenue to be paid is determined according to the volume of the taxable basis, and to the level of the tax or duty rate. (The quantum of assessment used in the Romanian fiscal practice is determined according to the nature of the income or taxable goods and to the categories of taxpayers.) There are two types of taxes and duties' rates: fixed, and percentage rates.

The fixed quantum are determined in fixed sum of a certain amount of the taxable income or goods. They are used especially if the object of the public income is expressed in natural units as: at determining the taxation

for state property fields (fixed amount on square meters); at applying the taxation to means of transport.

The percentage quantum represent a certain percentage of the taxable income or goods. They are applied only to taxable bases expressed in monetary terms. This is of three types: percentage, progressive (simple and compound) and regressive.

6.3 CONTROL (AUDIT)

“Fiscal control” is the instrument assigned to public forces in order to supervise and deduce, through certain methods and techniques, the constitution of public financial resources. Fiscal controls allow fiscal authorities to observe and correct omissions, underestimates, and taxation errors in due time. This type of financial control, organized inside the Ministry of Finance and its regional units, necessarily derives from the rights and obligations that are incumbent to the Ministry of Finance.

Concretely, fiscal control has certain general responsibilities:

- to take all the taxes and duties owed by tax payers in due time and at the rates established according to the basis of taxation, as well as the rate at which they are applied;
- to discover the taxes and duties escaping the payment towards the state or local budgets and attracting them to these budgets according to the destination stipulated through law or norms;
- to notice some legislative lacks which favor the fiscal estimation or make harder the cashing in to the budget of fiscal revenues, in order to improve the legislation.

For achieving a proper fiscal control, the fulfillment of the following requirements is necessary:

- creating a managerial frame able to define the responsibilities of those who have varies levels of fiscal control powers, as well as to guarantee the achievement of these attributions, without any interference from forces outside the system, and without any abuse of the bodies of fiscal control;
- creating a legislative framework which is to be both as comprehensive and straightforward as possible (i.e., being able to rapidly refine the applicable legislative framework in order to lesson any possibilities of tax evasion);
- ensuring an adequate supply of trained and motivated personnel in order to maintain optimal control of the overall fiscal system;
- guaranteeing technical conditions in order to support the efficiency of fiscal administration, generally, and of fiscal control, especially.

(The above-mentioned requirements are far from being accomplished in the present system.)

Forms of Control

According to the criteria above, we can mention the following:

- a) from the point of view of generally broadening understanding of the tax system:
 - *documentary fiscal oversight* (at the fiscal administration offices), consisting of checking all the components of tax payer files. These files could contain errors and anomalies which justify,

in certain situations, the initiation of an external control (i.e., an official investigation at the house/firm of the tax payer). Such controls could also compare the information provided by the employers or employees; financial institutions (i.e., incomes from investment interest, stocks, etc.), and the control of spending permits to estimate if certain deducted amounts are in accordance with the law, and if filed documents are in accordance with requirements imposed by the law;

- *real fiscal oversight*, at the home or workplace of the taxpayer, involves going directly to the taxpayer in order to obtain necessary supplementary information.

We can distinguish three procedures within these forms of oversight:

- checking the accounts of the firm, person, etc.;
- “cross-control” of the personal fiscal situation, with the purpose of comprehensively checking the fiscal situation of all taxpayers, in order to discover all taxable income. (This oversight should establish a concordance between declared incomes and the real individual taxable in question);
- the right to physically call upon the taxpayer. (This is an exceptional procedure, usually only conducted applied in cases of assumed flagrant abuse.)

b) according to the range of taxes and duties, fiscal oversight could constitute:

- *general oversight*, in the case when checking comprises all the taxes and duties owed by a taxpayer;

- *partial (limited) oversight*, when checking verifies only a part of the taxes and duties owed by the taxpayer.

c) according to the degree of extension of checking over the taxable operations, we can distinguish:

- *total (complete) fiscal control*, if all the operations, documents, and other provided forms of evidence forming the basis of establishing the rate of a tax or duty or of all the taxes and duties paid by a firm are checked. This form of control allows for, if necessary, the revelation of fiscal evasion, because it permits a complete checking of all the aspects of the activity developed by one or more firms (“crossed control”), taking into account all relevant documents, accounts, etc.;
- *estimated (selective) fiscal control*, if the checking are partial with respect to operations, documents, and/or the timing of payment of a certain tax or duty.

d) according to the task of the fiscal control, the latter could be:

- *“informative” fiscal oversight*, expressing the intention of an administration to inform the firms about the fiscal rights and obligations;
- *routine fiscal oversight*, aiming to maintain the relationship with the taxpayer, and to checking the way; in which he respects his fiscal obligation. The main target of this form of control is to compare the primary and accounting registers with the data in the declarations and bills deposited by the taxpayer so that the credibility of payments, as well as the way of re-

- specting the legal terms of payment, can be checked;
- *proper fiscal oversight*, which is primarily aimed at preventing tax evasion.
- e) according to the time of fiscal oversight, compared to the deposit of fiscal declarations, the achievement of payment, etc., could be:
- *a priori control*, comprising the means and procedures used for a better information and cooperation between taxpayer and administration;
 - *a posteriori control*, having as its goal to verify the sincerity of fiscal declarations, accounts, etc., using various means and procedures of control in order to analyze the fiscal situation of the taxpayer.

Most of these forms of control are not exclusive and are complementary, ensuring together an increase in the efficiency of the activity of control.

6.4 ENFORCEMENT

Government Decree No. 70/1994 initiates the competence of the county and capital fiscal bodies subordinated to general departments of public finance and to state financial control to oversee, deduce, follow and collect the taxes and delay penalties according to the law.

Therefore, in order to determine the fiscal obligations and to collect revenues owed and not paid on time, inspectors and other employees have clearly-stipulated rights to enter any business premises or any public place without previous notice. Access is granted during normal working hours and, afterwards, only with the

written approval of the relevant fiscal authority's board of directors. (Approval can be granted on the basis of a memorandum to justify the necessity of control after normal working hours.)

For the same reasons, an inspector or another employee authorized by the fiscal unit has the right to enter the house of the taxpayer, but only with his consent or the consent of the owner. (Or, if this is not forthcoming, on the basis of a juridical decision, issued on reasonable request of the board of directors of the fiscal unit.)

At the time of writing, fiscal overseers and other authorized persons have the right:

- a) to take an excerpt or make a copy of any document or account;
- b) to confiscate any document or other material which could be used as proof in determining the fiscal obligations of the taxpayer;
- c) to ask for the help, cooperation and assistance of the taxpayer and persons who represent him in achieving the rights under a) and b) above.

For determining the fiscal obligations, the fiscal bodies also have the right to attempt to determine:

- any activities intended to avoid or diminish legitimate taxes;
- activities accomplished for the benefit taxpayer, but in the favor of the associate shareholders or persons who act in their behalf;
- duties assumed by the taxpayer for certain loans granted by shareholders, associates or persons who work for them, in order to deflect attention from the real professional operation;

- the distribution, division and allocation of incomes, deducting, credits or reducing taxes for two or more taxpayers, (or those operations directly or indirectly checked by persons who have common interests, in order to prevent fiscal evasion and in order to cover up the real operations.)

6.5 COMPLAINTS AND METHODS OF APPEAL

Article No. 29 of Government Decree No. 70/1994 stipulates four appeal methods. These are:

- a revision request at the General Department for Public Finance and Financial State Control, of the counties or of the capital, Bucharest, if the taxpayer considers the estimation of the fiscal body unfair. A written request must be submitted within 20 days from the date in which the taxpayer received the estimation, and should be motivated and accompanied by proving documents. The General Department must normally issue a decision within 30 days from the registering date;
- an appeal to the Ministry of Finance, against the decision of the General Department for Public Finance, within 20 days from receiving the decision. The motivated decision of the Ministry of Finance will be communicated to the taxpayer;
- a direct appeal to the Court of Appeal in the taxpayer's jurisdiction against the decision of the Ministry of Finance must be made within 15 days of receiving written communication;
- the ultimate course of appeal, to the Supreme Court of Justice, against the Court

of Appeal, must be made within 15 days from the initial appeal.

Within the periods of solving the request and the appeals to the Ministry of Finance and the Court of Appeal, the payment of the contested tax and of any interest compounded during the contested dispute will be suspended.

Within five days from the date of acknowledgment, under signature, of the decision of the General Department for Public Finance and State Financial Control, or of the Ministry of Finance, the tax payer is obliged to pay the taxes, as well as any interest accrued because of this delay, following the administrative result of the revision request, if necessary.

The stamp tax for the revision request concerning the profit taxation and the delay penalties is 2% from the contested sum, when less than ROL 10,000.

In the cases of appeal, at the Ministry of Finance and the Court of Appeal, the stamp tax is half of the amount paid at the revision request. The stamp tax is paid in advance, regardless of whether it has been paid during a previous request or appeal, having the same objective. This disposition is given against the ways of appeal after a solution has been found.

The taxpayers are obliged to give in writing the amount they want to be revised and the title under which it is owed, in order for the stamp tax to be established.

(It is important to know that in the case of accepting the appeal, the stamp tax is reduced accordingly.)

6.6 FISCAL SECRETS

Under conditions of increasing the autonomy of companies and economic agents, (including those operating with majority state-owned capital), and of competition between them, information leaks are obviously potentially highly damaging. Therefore, there must be a protective system of the fiscal information known by the civil servants when they are on duty.

Accordingly, Government Decree No. 70/1994 stipulates the obligation of the civil servant inside the various fiscal offices, (including persons who are no longer in these governmental roles), to keep secret any and all information they have about the taxpayer as a statutory obligation. The most important information covered by the directive involve anything regarding the identity of the taxpayer; the nature, source and amount of income paid; payment reductions; active credits; outstanding debts; patrimony payments; any kind of information taken from declarations and proving documents of the taxpayer; any information known after the control of the taxpayer, etc.

In exceptional circumstances, the information about the taxpayer could be transmitted in the following situations:

- to other fiscal authorities, in order to achieve obligations coming from applying a fiscal law;
- to an authority in the field of work and social protection, in order to pay social security or similar types of financial obligations;
- to the fiscal authorities of another country, in order to avoid “double taxation” payments;
- to other competent authorities, according to relevant laws.

The fiscal secret is obligatory for the person who receives the information in the above mentioned situations.

Under the consent of the taxpayer, the information referring to the taxpayer could be transmitted to other persons than those mentioned above.

Not respecting the obligation of keeping the secret of the information about the taxpayer by the civil servants inside the fiscal bodies, (including the persons who no longer hold such offices), is punishable under law.

7 Management and Support Functions

7.1 MANAGEMENT

Although it may appear that it limits certain important duties, management of the Romanian financial administration is not an easy problem because of the diversity of the system of taxes and duties, as well as because of the instability of the procedures and restrictive conditions of tax calculation and collection.

When we talk about this global aspect of management, we also take into account these aspects:

- there appeared to be, at the level of financial administrations, professional managers who can cope with normal demands;
- with a few exceptions, the managers of the taxation institutions are aware of the clarity and specificity of the obligations and duties that they have;
- in personnel areas, the manager has wide-ranging duties regarding employment, training, payment, dismissal, supplementary awarding of any bonuses, etc.;

NOTE:

a big problem at present is the fact that the competence and the stability of specialized revenue personnel, affected by the non-stimulating wage system for specialists (including financial specialists and accountants), are decreasing because these persons are highly regard in the generally much better-paying private sector.

7.2 TAX POLICY ADVICE AND LEGISLATION

As concerns local taxes and rates, the Ministry of Finance, General Directorates of Public Finances of each county, Financial Administrations Offices, fiscal divisions and services are obliged to ascertain natural persons and corporate bodies regarding the veracity of their tax returns and of rate and tax establishing and collecting under the terms of Law No. 27/1994. Discounted taxpayers can contest any tax bill within 30 days from receiving the payment demand at the General Directorate of Public Finance and Financial State Control of the respective county or of the municipality of Bucharest.

Against the decision of the General Directorate, taxpayers can lodge a complaint to the Ministry of Finance within 30 days of the decision being issued.

There now exists the right to appeal any Ministry of Finance decision. For the first time in decades, citizens may lodge a complaint within 15 days of receiving the Ministry's decision at the court located in the zone where the respective taxpayer lives (Article 63 of Law No. 27/1994). Therefore, the jurisdictional authority regarding any possible disputes is given generally to the state fiscal authorities. Fiscal disputes still have to be solved by the financial bodies concerned. This isn't a good solution to assure financial independence and

impartiality, however, because the body whose actions are at the center of any such dispute clearly belong within the jurisdictional system.

That's why we consider it necessary to establish better judicial control in fiscal areas. In this way, the body of judges belong to another system; an objective system, established to resolve disputes.

We consider that the main task of fiscal control is to verify and to explain the legality and validity of documents. The control contains four fundamental steps:

- establishing standards;
- measuring results;
- comparison of results with established standards;
- rectifying deviations.

There are three kinds of control: preliminary (preventive) control, simultaneous control and subsequent control.

Fiscal control facilitates the removing of omissions, understandings and miscalculations by the fiscal administration till the prescription term.

Article 48 of Law No. 72/1996 regarding public finances provides for "preventive control and the subsequent control concerning the formation, administration and using of financial state and public resources is done by the Court of Finances and by other state bodies under the terms of the law".

- In fact, fiscal control has in view to collect all rates and taxes owed by the taxpayers at the stated time;
- To trace out the tax evasions and to correct them;

- To point out some fiscal legislative deficiencies able to encourage the fiscal evasion or to render more difficult the collecting of fiscal incomes, in view of improving and correcting the law.

Looking closely at current fiscal reality, we can observe the following methods of fiscal control:

- *documentary fiscal control* (at the office of local administration) consisting in the detailed examination of the taxpayer's file;
- *effective fiscal control* at the registered domicile of the taxpayer.

In response to the question "is there a unit in your tax office that regularly works out policy plans as milestones for decision-making and implementation?", the survey only met with 40% affirmative answers.

The salient features of these answers were:

- they worked out quantified sets of objectives;
- they also propose time limits for realization;
- they use as instruments for public management (evaluation, readjustment).

The head of a tax office is also involved in the elaboration of policy-making for the years to come.

As a result of our research, it appears that the strategic plan for the tax office is now far more widely-known. This plan has also been disseminated to all fiscal officers, and managers have been involved in these actions.

The manager of a tax office is legally charged with giving clear and specific sets of tasks and duties for his office, and is granted the neces-

sary resources to realize them. At the same time, he has a certain degree of autonomous “leeway” to exercise his duties with regard to:

- financial management
- human resources management
- management flexibility within the organization

Speaking in terms of responsibilities, the head of the Tax Office is responsible for the results of his unit.

7.3 SUPPLEMENTARY RULES, LEGAL ADVISE AND QUALITY CONTROL

The basic institution responsible for tax matter, the Financial Administration Office, has a strategic plan of taxation known by all the employees because it is organized as a local body of the Ministry of Finance.

Inside this functional pyramid, any official documents regarding introducing any new tax, (or about modifying any existing one), described detailed procedures, instructions, regulations and even training courses for ensuring their correct application.

These observations are also valid for certain local taxes, but only for certain categories of taxpayers.

There are indirect and direct methods of identification and evaluation regarding the assessment process. Collection of taxes and other revenues can be implemented through direct payment, withholding transfers, fiscal stamps, etc. These come under the strictures of civil law. But paying off a fiscal debt is subject to the terms of fiscal, rather than civil law.

Regarding tax collection, the following methods are used: direct payment, holding back, tax transfers, fiscal stamps, etc. Regarding inspection, taxpayers selection, in the case of natural persons is made, mostly, on expected return criteria. In auditing, individual taxpayers are selected mostly under expected return criteria. In the case of corporations and multinational companies, selection is made both randomly or according to expected return criteria. There have been other cases when all companies are audited without exception.

(Tax auditing authorities are interested mostly in big companies because, in case of fiscal evasion the sums evaded obviously would be far more significant than smaller firms.)

The control of the correct declaration of incomes subject to taxation and, generally, of the taxes and duties, has different appearances:

- individual taxpayers have their taxation basis detailed in writing in their files. But the eventual changes could take place only under normative restrictions. For example, if a taxpayer wants to sell his own car, he must be able to produce evidence in the form of certification to the relevant fiscal institution that he has paid all applicable taxes. Likewise, if the same taxpayer wants to register a car he has recently bought, he should also have the certificate issued by the fiscal institution to which he has paid the aforementioned tax. This is the procedure in the case of almost all taxes and duties—so, we can speak about a combination of office checking and self control;
- individual businesses are regularly checked by a group of specialized inspectors of the financial administration;
- all other taxpayers, being corporate businesses, are audited at the tax office when

they submit assessment declarations and monthly tax deductions.

The second stage of control is a financial audit on the premises of the taxpayers. (This tends to take the form of a hard and often inconclusive battle between a weak and unprepared inspector on the one side, and the accountant of the firm; well prepared, assisted by experts, lawyers, and consultants on the other.)

There is confusion as to who is authorized for fiscal control among the fiscal bodies. The source of this confusions could be the regulations of the responsibilities of the Ministry of Finance.

Thus, Law No. 30/1991 regarding the organizing and functioning of the financial control accords only to the Court of Accounts in the interests of fiscal control.

Unfortunately, Government Decree No. 70/1994 makes things more complicated on many levels: as Art. 21 stipulates: "Finding, control, pursuance and collection of taxes and penalties for debt regulated by the present decision are made by fiscal bodies. Public Finances and Financial Control of the counties and of the municipality of Bucharest". The main problem is that it is left unclear which exactly are the respective fiscal bodies mentioned in this directive.

Moreover, the survey answers based on this directive say that the fiscal audit will be exercised by "intermediate offices" in the counties. These offices select taxpayers for auditing, not the central offices.

It remains regrettable that in Romania, organization of fiscal control authorities still fails

to correspond to present pressing needs. Insufficiency and inefficiency continue to characterize organizational structures and levels of competence in financial, accounting and fiscal areas. This situation becomes clear if we analyze it, starting from just two features: efficiency of various fiscal agents, and (criminal) tax evasion.

Consequently, with a view to organizing and putting in place an efficient fiscal control hierarchy, it is necessary to redefine the duties and liabilities of the staff subordinated to the Ministry of Finance [C. Gorcea, 1995].

The taxpayers' "person to person" contact with tax officer depends on a lot of factors: (i.e., dealing with individuals or corporate bodies, whether the tax return is sent to the right place, or if taxes are transferred directly into accounts, if the taxation object needs to be re-evaluated, etc.)

However, the majority of our survey subjects offered answers centered around the solution of meetings person to person in the local offices. This kind of contact is very important for furthering the development of a more efficient tax system.

7.4 DEVELOPMENT OF CORE PROCESSES AND INFORMATION SYSTEMS

The individual taxpayer, as the subject of taxation, has a computerized numeric code and a fiscal file (a so-called "rol" file) but it comprises only those fiscal duties which are to be paid at the financial administration in an organized manner: (i. e., taxes on construction, means of transport, property, wages, etc.). The

terms of tax payments are regulated in details, but the fiscal inspector should identify, audit and oversee the taxpayer's fiscal activities.

In the case of private businesses, a second fiscal file with a corresponding code is issued. In establishing the tax obligation, the fiscal agent has a crucial role in supervising the assessment process.

Is it legally possible to have computerized cross-checks (whether for local or other taxes) between the taxpayers, tax declaration, etc. and between the stored information on the citizens in other databases as well. It is less possible to have this cross checks between the banks databases due to the low level of such information-gathering at present.

Depending on the tax in question, a taxpayer is registered in different files detailing his or her overall fiscal status. He can be serviced as a person in a single unit (tax office), or through electronic data networks.

We draw up the conclusion that anyhow, the problem to project an organizational structure of fiscality must have as a prime goal a solution to the critical inadequacies of two major factors in the tax system: systemic efficiency and consistent, fair-handed treatment of taxpayers.

For the taxpayer, the obligation to complete certain forms of return at a stated time is presently a far too time-consuming affair. Returns must now be filed quarterly. As concerns the tax on building, the owners must pay it within 15 days of receiving official notice. We consider that it would be better that the taxpayer could draw up once in a year a return of income to the fiscal authorities.

Within tax offices, the following reforms have been implemented in recent years to improve customer service:

- a clearer definition of personnel specification;
- a better information by press;
- employment of fiscal agents in order to go at taxpayers residence and collect taxes.

In order to stimulate compliance:

- tax justification;
- a better information of the customer;
- consulting activities aimed to the understanding of the advantage to pay taxes in time.

In terms of optimizing cost-efficiency:

- employment of qualified staff;
- measures to control the fiscal inspectors;
- modern data-processing;
- general expenditure reduction.

Some tax offices had undertaken measures for staff development of the unit, such as:

- incentives for the tax collecting in a timely manner;
- increase of employees numbers, simultaneous with the reduction of the number of tasks;
- training of employees;
- improving everyday relations with taxpayers;
- training and periodical evaluation;
- stimulation and motivation of staff.

In spite of these efforts, a few conclusions can be drawn. We have already remarked on all kinds of problems which make difficult the administrative activity:

- the complexity, duplication, ambiguity of current fiscal legislation, redundancy;

- the bad quality of services offered by fiscal or audit agents;
- the high cost of fiscal procedure applying;
- tax evasion and other illegal activities;
- the training and hiring of employees by illegal means;
- too frequent changes of the legislative framework. For instance, the first law against tax evasion (Law No. 87/1994) was adopted five full years after the Revolution of 1989. In this period the underground economy was created and allowed to thrive. It will take enormous resources to diminish its effects on the economy as a whole.

7.5 HUMAN RESOURCES MANAGEMENT

With regard to personnel management, tax office performs tasks such as: selection, promotions, appointment, training, transfer, etc., we have observed that only 40% of all survey respondents say that all these tasks are carried out by their own tax offices. Another 20% stated that these offices do carry out the mentioned services, except for training, which is a central duty.

We offer the following explanation: in Romania, the hiring of civil servants is made locally, within the territory in question. Until very recently, professional personnel were almost never recruited through specialized “head hunting” firms. Far more often, bosses simply hired acquaintances or relatives of the employers or chief officers.

However, we harbor certain doubts about the truth of many of the questionnaire answers. This is especially true regarding the criteria of

tax agents selection, with the following options: political criteria, merit criteria and subjective criteria of the top bureaucracy. We doubt the veracity of the answers saying that employment is based on competition criteria. The remainder (40%) of interviewed persons can be divided into two other categories: 20% declined to describe these criteria. The remainder estimate that 25% of candidates are selected according to political criteria, 55% according to competition criteria and 20% to bureaucratic criteria.

There is a disposition of measuring in the local offices, and the criteria used are as follows:

performance	80%
output	60%
effects	60%
quality of service	60%.

Speaking in terms of yearly evaluation of the staff, there is an evaluation test based on the following criteria:

- 1) punctuality in applying regulations;
- 2) number of citizens appeals and complaints;
- 3) amount of taxes involved;
- 4) productivity;
- 5) meeting performance criteria and expectations;
- 6) perceiving quality.

On the other hand, this evaluation offers opportunities for promotion (if the evaluation’s result is very good), training programs and even better wages.

As concerns the average of training days per year and per fiscal agent, the limits are between five and 30 days. The training courses are organized by the Ministry of Finance, through a network of training centers located in the major cities and Bucharest.

Extremes are more evident as regards the average percent of manpower who is leaving tax office per year". The limits were between 4% and 90%. Such staff mobility can be explained by lower wages compared with the private sector. Although 100% of answers confirmed that "tax officers are badly paid" (compared not only with the private sector, but also with the other civil servants), we consider that this is an exaggeration. (It is true that they are badly paid, but they don't receive the lowest wages within the public sector. In Romania there are many other categories of public employees much worse paid than tax officers.)

As a consequence of low wages, many civil servants take another job. Through this plurality of offices, they try to assure themselves a better life. Interestingly, answers revealed that:

- 60% of fiscal agents are involved in education, work in schools, etc.;
- 80% of them perform consulting services;
- 40% of them publish articles in the press about their areas of fiscal activity.

In Romanian tax offices, there is a systemic use of performance indicators, including reviews and internal audits. But less than half of all tax offices regularly use readjusting evaluations and internal agreements of performance.

The ethical problem that exists with the tax officers is both politically and socially very delicate, and far too widespread in Romania. The main cause of corruption is clearly the fact that tax inspectors are poorly paid, and come into regular contact with individuals more than willing to offer bribes and other fiscal inducements to get the inspectors to turn a blind eye to illegal tax evasions.

The roots of corruption stem from:

- the temptation of civil servant to gain money by dishonest means;
- a certain immobility within the public sector in terms of job promotions, wage rises, etc.

It's interesting that the corrupter can justify his action like this: "he try to make run the economic and social wheels". The wages received by the fiscal agent is not enough to assure a decent living standard.

Technically speaking, the measure of the corrupted person's profit is directly proportional to the profit of the corrupter. Corruption finds its way in an economy whose public sector is characterized by a multiplicity of confused regulations which give the possibility of exploiting its inefficiencies, and via other inadequacies.

We can draw up the conclusion that in Romania at the moment, corruption is far from being an aberration, but the situation which generates it is absurd. Corruption is a rational economic reaction to the chaotic social and economic environment.

7.6 BUDGET AND PROCUREMENT

As concerns the budgetary allowances, tax offices receive both kinds of budgetary allowance: overall allowances and detailed allowances depending on each action.

The law provides that local budgets can benefit by some financial transfers from the central budget, if necessary. It is a legislative innovation compared with previous regulations.

These transfers are not compulsory and have two destinations specified by Law No. 21/1993:

- assurance of social protection as concerns thermal energy;
- investments in public utilities.

Moreover, in view of obtaining these transfers, local authorities must mention the objectives and the kind of respective necessities. Under the terms of the law, budgetary allowances are given according to needs.

Local authorities rely too much on these transfers from the central budget. They are assigned

to social security (37.1 %) and to local investments (62.5%).

If we add income taxes (39.5%) to these transfers (37%), we arrive at a total of 76.5%. This amounts to the external financial support for local necessities. Local sources represent 23.5% of total local revenues .

Being a part of administrations budgets, taxation (fiscality) has an associated cost that is measured mostly as a "per departmental unit". The more complex the fiscality structure becomes, the bigger taxes administration costs become, as well.

8 Organization and Management System¹²

In Appendix 1, we detail the hierarchy of Romanian tax institutions. In Appendix 2, we offer a typical chart of a Municipal Financial Administration Unit representative of the main functional fiscal institution in Romania.

8.1 ORGANIZATION STRUCTURE

An organizational problem confronts larger municipalities with a larger number of taxpayers. The difficulty stems from trying to determine the exact amount of taxable sources which serve both the local and central budgets. There are now a number municipalities which currently endure these kinds of problems, (Cluj-Napoca, Brasov, Constanta, Craiova, Iasi, Ploiesti, etc.).

There is a central regulation to establish and verify organizing taxable sources. There are also regulations concerning budget and off-budget performances of public institutions with a view to controlling tax avoidance.

Besides these aspects, the Financial Management Units administrates their belongings and also their incomes and charges budget as a secondary contractor.

For duties achievement the Financial Administration Units cooperates with the other state institutions; namely, the local city hall, The Ministry of Justice, The Ministry of Home Affairs, etc.

At the same time, the Financial Administration Units which are functioning on the basis of a regulations for organizing and functioning put forward by Romanian Government will complete personal competencies of their services with new tasks as a result of orders and instructions elaborated by the Ministry of Finances.

This is due to the fact that the initial regulations was elaborated as early as 1993, in accordance with the Order of the Ministry of Finance No. 1337/1993 in the same time with the treasury, setting up in some capital counties like Brasov, which is one of the first established in Romania.

8.2 MANAGEMENT

The managerial staff of a city Financial Administration Unit is organized as follows: one Director and two Deputy Directors, one of the Treasury Department and the other of the Taxation Department.

The Financial Administration Unit activities are organized and controlled by the Manager. In the same time the Manager coordinates in a directly way the following offices:

- wage office for administrative and juridical staff;
- balance sheet office for economical agents;
- office for local budget elaboration and reports;
- data processing office;

The Deputy Director of Taxes Department coordinates the followings;

- department for natural persons;
- department for legal entities;
- department of tax collection from natural persons and legal entities;
- VAT (Value Added Taxes) Department.

The Deputy Director of Treasury Department coordinates the followings:

- pay office and treasury department;
- department of auditing and expenses evidence;
- department of auditing and incomes evidence;
- department of accounting and discount.

When we talk about organizing and managing fiscal activities, to the stage of collecting the taxes and duties by the state treasury and even to their distribution for the regional administrative units, we should take into account the legal components, that is:

- a) this process is coordinated by the Ministry of Finance, which has as subordinates:
 - 1) General Directorate of Public Finance and Financial Control - at the county level;
 - 2) Financial Administration Offices— at the level of cities, towns and villages, including the Bucharest districts;
 - 3) fiscal agents—each inside a proscribed area.
- b) there are taxes and duties directly taken by city halls through cashiers or agents, but, as absolute amounts, these represent under 1%, even if they are gathered from many taxpayers.
 - 1) The division of labor, organization of the activities referring to the pro-

cesses of levying the taxes and duties and the relationship with the taxpayers are represented in the financial fiscal legislation and are marked by the capacity of the city halls to employ qualified personnel.

- a) Basically, the estimation, collection and inspection are activities incumbent to the financial administration;
- b) From a practical point of view, the achievement of these functions differs according to the way of classifying the taxpayers and according to the type and nature of each category of taxes.
 - Individual taxpayers—for direct taxes (building taxation, field taxation, specific duties, etc.)—they pay the taxes directly to the cashiers of the financial administration they belong to;
 - Small entrepreneurs and family associations are taxed contractually and pay the duties to the financial administration, but in the favor of the local city hall;
 - Firms, no matter how large (from limited companies to holding companies) calculate their own fiscal obligations (VAT, profit tax, dividend tax, field taxation, building taxation, means of transport taxation, etc.) through procedures and techniques according to the law, appearing in their accounting registers; they pay the duties, on their free will, at the established terms.

At the same time, the economic operators, the public institutions and any kind of juridical body, calculate and take at the source the wage tax, as well as other duties the employees have to give to the state treasury.

In the same way, the state takes the tax on the interest of bank deposits, the copyright paid by printing houses and newspapers, any cooperation between physical and juridical bodies.

We can say that there are two channels of collecting the taxes and duties for the state treasury: through the financial administration and from the physical bodies through fiscal records to the financial administration.

8.3 FUNCTIONS

Each institution's office or department is lead by a head. The heads of the department for finding and taxation natural persons and of the department for finding and taxation legal entities had, each of them, an office head in their subordination.

During the year, the structure and the functioning of the Financial Administration Unit it has to be adjusted to the Government Decree No. 84/1997 in order to modify Law No. 27/1994 regarding to taxes and local duties and to the Government Decree No.85/1997 regarding the taxation of natural persons' incomes.

8.4 VOLUME OF ACTIVITIES

Due to the municipality's financial administration structure (the number of taxpayers is bigger than in the other first level cities), the volume of activities is very large, especially in the department for finding and taxation natural persons and legal entities.

Besides the finding, taxation and taxes collecting activities, the departments staff receives,

checks up and centralizes an important number of reports and declarations as follows:

- a) the statement of registration for taxpayers (IMP 1)

Thus, all the taxpayers are registered or authorized to:

- petition and centralization of yearly balances of sheet, these representing the closing of the previous financial year;
- the statement for the natural persons who are opening work-points in accordance with the 3rd article, Law No. 87/1994, regarding tax avoidance.
- monthly statements, including:
 - the statement for profit tax;
 - VAT discount;
 - excise taxes discount;
 - 20% tax discount, as concern the all cash from the gambling.
- half-yearly statements:
 - report as concern the wages tax
- yearly statements:
 - the statement for tax on buildings
 - the statement for tax on playing fields
 - the statement for car tax

All these statements can be changed during the year.

At the taxpayers request respective:

- a) legal entities
 - it will be given: a certificate for auction which reveal all the debts to the local or central budget, a certificate necessary to provide licenses of transport and fulfillment by the Romanian Road Office.
- b) natural persons
 - it will be given: a certificate for unemployment benefit, a certificate for financial non-pursuit with a taxable value.

8.5 STAFF

The Financial Administration Unit activity is organized in many departments or offices with an average staff number as follows:

- the Department of finding and taxation legal entities:
 - 30 employees (20 of them are inspectors)
- the Department of finding and taxation natural persons
 - 22 employees (17 inspectors)
- the VAT department
 - 18 employees (15 inspectors)
- the Office for local budget elaboration and reports
 - 5 employees (3 inspectors)
- the Taxes collecting department from natural persons and legal entities
 - 27 employees (13 inspectors)
- the Balance sheet office for economical agents
 - 5 employees (4 inspectors)
- the Wage office for administrative and juridical staff
 - 22 employees
 - an economist
 - a lawyer
 - five economic undergraduate students
 - other employees in the administrative staff—secretaries, guards, servants
- the Data processing office
 - 10 employees
 - 2 analyst-programmer (including the head office)
 - 8 computer operators

The small number of these computer operators determined the necessity of transferring employees from other departments, to improve the data processing activity.

- the pay office—treasury department
 - 12 employees (including the head of the department)
- the department of auditing and expenses evidence
 - 12 employees (including the head of the department)
- the department of auditing and incomes evidence-gathering
 - 11 employees (including the head of the department)
- the department of accounting and discount
 - 11 employees (including the head of the department)

8.6 TECHNOLOGY AND COMPUTERIZATION

The Financial Administration Unit building isn't enough spacious for financial activities in order to fulfill its purpose in good conditions.

Related to the amount of processed files, the computer networks are rather inadequate, the costs for up-grade as well as for buying other computers being very expensive. (The software used are not among the most recognized in the world at the moment for such purposes.)

9 Strategic Issues

Local administration has always greater needs than its own resources and transfers from the state budget. The decision-making process and its financial consequences can't be analyzed separately. Therefore, one of the most important area in public finance is fiscal decentralization.

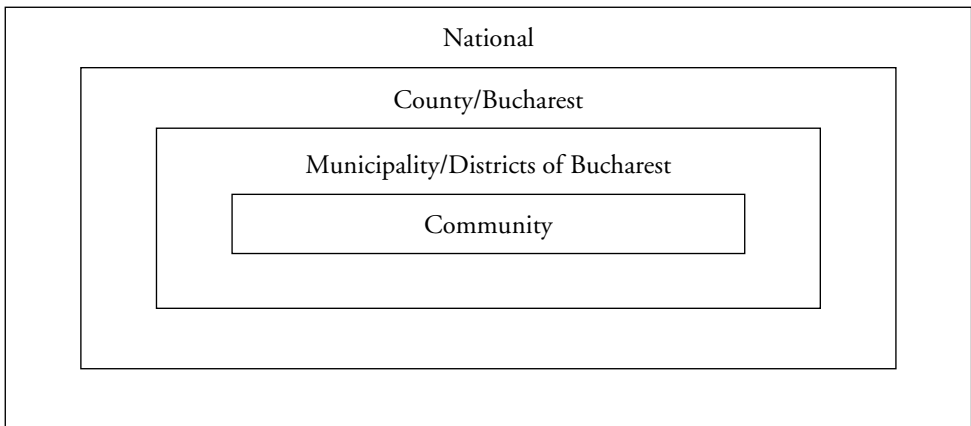
Relations between central and local administration starts at the decentralization level. This implies separating the political values by economic efficiency and assuming fiscal responsibilities on behalf of the local community.

At this moment, the Romanian tax system is a vertical model in terms of intergovernmental relations (Figure 2).

The financial administration corresponds to the actual needs of Romanian system of taxes and duties, even if it remains the possibility of perfectibility, through better staff training and better cooperation with the local public administration. In many places the financial administration declares itself a kind of "state within a state" damaging the process of levying the taxes and duties, and this fault should be rapidly corrected.

Since 1999, new additional quotas will be set to certain revenues from state and local budget in order to constitute revenues of local budget. It will lead an increasing fiscal pressure on the average taxpayer.

Figure 2
The vertical model of the Romanian tax system



Regarding loans the new law will allow approving medium and long term loan contracts both internal and external.

The main tools of local administration to achieve this policy are:

- bonds;
- loans from banks;
- credits from entrepreneurs and suppliers.

Bond issuing may be done directly by local administration or by a professional agency.

Local and county councils will be able to engage internal loans without governmental guarantees provided that prior informing Ministry of Finance.

9.1 A BRIEF OUTLINE OF THE NEW LOCAL PUBLIC FINANCES LAW

The Local Public Finances Law, which came into force on January 1, 1999, was intended to alter the financial and budgetary management techniques being used by the local authorities. The Law defines local budgets as distinct sectors.

Local Autonomy

The law enhances the autonomy of local administrations. From this point of view, the law permit to the local authorities to be more responsible in the taking decisions process.

The law offers to the local and county councils, the authority to establish, survey and collect the incomes and the responsibility of expenses planning. Local administrations have many incomes that are directly at their own

services, including a rate from the wage tax. Local administrations have a wider authority in the way of use their own incomes. Revenues from the state budget are not targeted, and local authorities have the freedom to allocate them.

Transfers with a special destination are given only for investments financed from foreign loans. Moreover, it is not necessary to gain approval from the central authorities for investments made from the local budget. In this way, the local administrations are able to establish resources if that particular community has a need for improving local services or for investments.

These local administrations are authorized to borrow credits from the Romanian commercial banks or financial institutions without state approval. The local authorities have the right to transfer budgetary credits from one budget sector to another. The local public authorities can finance local activities in the benefit of the community.

This extra autonomy is accompanied by the supplementary responsibilities. The local administrations are required to well balance their own budgets in concordance with their own incomes. The local administrations must be capable to present the local incomes as guarantee.

In this law are plenty of measures which encouraged the financial responsibilities, long-term planning and the improvement of the financial practice. The flexible structure of the surplus allows local administrations to preserve the excess, which are register at the end of the year. The law stipulates that all the local administrations should have *more authority* in:

- Increasing the revenue quotas that are considered own revenues on the basis of local taxes and salary quotas;

- The volume of information increasing as concern well-balanced sums;
- The increasing of expenses monitoring. The transfers with a special destination are removed, without the ones for investments financed from foreign loans with some contributions from the Romanian government;
- The monitoring diminution of the state as concerns the investments. (It is not necessary for the Ministry of Finance to agree to any investments totally financed from local budgets);
- Long term budgetary planning.
- program for investments, detailed on objectives, drawn up on the basis of some notes made in concordance with the legal provisions. (Article 6 and Article 16);
- the budgets of the institutions and local public services financed totally or partial from the local budget;
- local budget annex: (i.e., a budget structured on programs).

The Ministry of Finance will draw up the methodology for the local budgets (Article 34) as well as for the closing year budget.

Local administrations should have *more responsibility* in:

- The expenditures should be fit between the income limits both for the short term (current year) and long term (three years);
- The incomes and expenditures should be balanced;
- The citizens should be well informed and the local budget must be published.
- Public debt should be cautiously managed.

It also allows the *drawing up and the approval of the budget*:

The most important principle used in the drawing up stage is fact that local budget projects must be balanced.

The law stipulates for the local public authorities to draw up together with the annual budget project the following:

- prognosis of the budget for the following three years. (Article 6);

Revenues from the Shared Amounts of the Wage Tax

From the wage, tax will be transferred:
50% to the state budget;
40% to the administrative unit
10% to the county budget; (Article 8)

All these percentages could be alter through the yearly state budget law.

Revenues from the Additionally Rates on Some Incomes of the State Budget and Local Budgets.

The law provides the possibility to use, as source of income for the local budget, some additionally rates on some incomes of the state budget and local budgets. The law establishes the maximum level for these quotas. (Article 8; align. 4 and 5)

Revenues with Special Destinations/Distinct Categorizations

Special taxes—can be used only for some particularly local services. For these special taxes, the law has the following provisions:

- special taxes should be covered at least the current costs and the invested sums for the respective service;
- special taxes are incomes with a special destination, and can be used only for the purposes that were made;
- special taxes are collected only from the natural bodies and judicial persons who stand to benefit from the particular service they will provide.

Sale of Goods

A new income source available at the local budgets is made by the sales of local administrations' private goods.

The revenue resulted can be used only for the financing of public investments.

Fixed Assets Depreciation

Local authorities are compelled to calculate, record and retrieve the fixed assets depreciation, in the limits of the established prices. (only in the case of some public services established by the Government) (Article 47).

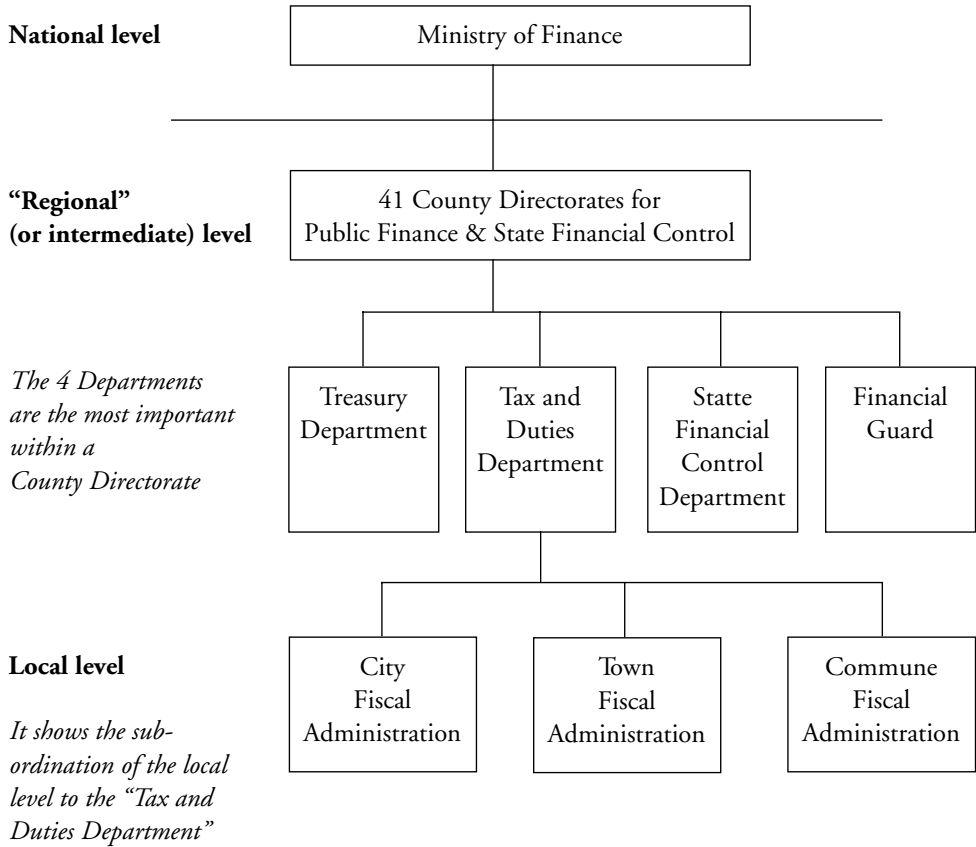
Notes

- ¹ At 31st of December, 1995.
- ² The sponsorship is ruled by the Law no. 32/19.05.1994 modified by the Government Decree no. 36/30.01.1998.
- ³ The amortization and depreciation are ruled by Law no. 15/24.03.1994 modified by Government Decree no. 19/04.08.1995 approved by the Law no. 96/01.11.1995 and by Government Decree no. 54/28.08.1997 approved and modified by the Law no. 227/04.12.1998.
- ⁴ Starting with 1998, the tax on profit is payable quarterly.
- ⁵ The example of calculating the net wage from the gross wage was good for first semester of 1998. The deductible amount is up-dated to inflation (CPI) every six month by Government Decision. The 3% supplementary pension fund increased to 5% in February 1999. The Global Income Tax in force with January 2000 came up with a new system of deductions. (Government Decree no. 73/1999).
- ⁶ The Law no. 189/1998 on the Local Public Finance was modified by the Government Emergency Decree no. 216/29.12.1999 in two essential points:
- 1) the quota of 50% allocated from the wage tax to the local budgets increased to 60%;
 - 2) at the county level the 60% is differently divided:
 - 40% are going to the local (city, town and commune) budget;
 - 10% are going to the county budget for their own purposes;
 - 10% are going to the county budget to be distributed for the balance of the local budgets.
- ⁷ The VAT changed in February 1998 from 18% (standard rate) and 9% (reduced rate) to 22%, respectively 11%. In January 2000 the VAT changed to a standard rate of 19% (Government Emergency Decree no. 218/29.12.1999). The zero rate only applies to the export of goods and services if the payment is received in foreign currency in a foreign currency account in a Romanian bank.
- ⁸ The Excise Tax Law no. 42/1993 has been modified:
- by the Gov. Decree nos. 22/95, 20/96, 14/97, 68/97, 70/97;
 - by the Gov. Emergency Decree no. 82/1997;

- by the Gov. Decision nos. 92/97, 240/97;
 - by the Law no. 72/97.
- ⁹ Eracle Săsană, Aparatul fiscal, “Tirajul” Publishing House, Bucharest 1940, p.3.
- ¹⁰ Article 101, Paragraph 1, The Constitution of Romania.
- ¹¹ Article 4 in Law No. 10/1991.
- ¹² The organization and functions described in the chapter are the functions of the central financial administration before January 1999, when the local tax administration went from the territorial units of the Ministry of Finance to the local financial administration. (City halls and county councils). Practically the transfer of authority and activity was made when the local administration was prepared to take over the new responsibilities. Some counties did it in the first months of 1999, and the last ones took over in the beginning of 2000, districts of Bucharest included.

Appendix 1

Figure A1
Romanian fiscal authorities



- municipalities (cities: between 60,000 and 500,000 inhabitants
towns: between 10,000 and 60,000 inhabitants) and
- communes

Appendix 2

Figure A2
Tax unit of Brasov city

