

Tax Procedure Code in Romania *by Antonela Papoiu, Tax & Accounting Services*

All procedural aspects related to tax matters, e.g. tax determination, tax audits, tax administrative acts, etc. are regulated in Romania by the Tax Procedure Code (*Codul de Procedura Fiscala*).

Since basic knowledge in this area is extremely relevant in practice, this article provides an overview of important issues regarding the application of the Tax Procedure Code in Romanian practice. In addition, its regulatory purpose and important principles governing the relationship between the taxpayer and the state authorities are presented.

Definition and regulatory purpose

The Tax Procedure Code regulates the rights and obligations of the parties to the tax law relationship with regard to the administration of tax claims and the obligations of the parties. The regulations contain important principles for the application of tax laws in the relationship between the taxpayer and the tax authorities.

The Tax Procedure Code clarifies essential concepts such as the tax administration act (*act administrativ fiscal*), the administration of tax claims (*administrarea creantelor fiscale*), risk analysis (*analiza de risc*), interest (*dobanzi*), late payment penalties (*majorari de intarziere*), penalties (*penalitati*), etc. Its purpose is to clarify the elements that characterize the interaction between the taxpayer and the state budget.

General principles, rules of conduct, rights and obligations

The principles should be of great interest to those who actively interact with the tax authorities, as they are key to understanding a rather complex body of law.

➤ **Principle of legality**

Based on the principle of legality (which in itself is self-evident), the tax authorities are obliged to comply with the statutory provisions in order to respect the rights of the taxpayer. Taxpayers must also comply with their obligations and measures to exercise their rights shall always be based on legal provisions.

➤ **Principle of uniform application of the law**

When applying this principle, the focus is on the obligation to determine tax claims correctly and uniformly throughout Romania. The application of this principle repeatedly causes problems in practice.

➤ **Right to assess facts**

In principle, the tax authority is entitled to assess facts. However, it must proceed under lawful conditions and ensure proportionality between the objective pursued and the means used to achieve it. This implies, among other things, the obligation to grant reasonable deadlines for the fulfillment of payments or other obligations.

➤ **Active role and rules of conduct**

Among other things, the tax authority has a duty to inform taxpayers of their rights and obligations. In addition, it must objectively examine each case and support the taxpayer in the correct application of the law.

In this context, it is worth mentioning that taxpayers are divided into risk classes; the criteria for their classification are also partly derived from the Tax Procedure Code. Risk analyses are carried out at regular intervals; taxpayers have no right of appeal against their classification in a particular risk class.

➤ **Official language**

The official language of the tax administration in Romania is Romanian. In relation with the tax administration, documents written in another language must be certified translated before submission.

➤ **Right to be heard and the duty to cooperate**

The taxpayer has the right to take note of any decision by the tax authorities that affects him and, in principle, to comment in writing on the circumstances that lead the tax authority to make the decision before it becomes an official act. At the same time, the taxpayer is obliged to cooperate, inter alia by submitting all supporting documents to assess the actual facts of the case.

➤ **Confidentiality**

The tax administration is obliged to treat all known information about the taxpayer confidentially. This concerns identification data, type and amount of tax liability, source and amount of income, bank accounts, assets, etc.

Conclusion

The Tax Procedure Code aims to prevent confusion in the control process and abuses between the parties involved, i.e. the state and the taxpayer. Its provisions regulate the relationship between both parties on the basis of good faith.

Whenever a company is faced with a tax audit, it should seek professional help to ensure that the above principles and its rights are respected.

Contact and further information:



STALFORT Legal. Tax. Audit.
Bucharest – Bistrița – Sibiu

Office Bucharest:

T.: +40 – 21 – 301 03 53

F: +40 – 21 – 315 78 36

M: bukarest@stalfort.ro

www.stalfort.ro