

CONSIDERATIONS REGARDING THE INCOMES AND THE PUBLIC DEBT

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Abstract

The general objective of this paper is a topic of present interest, taking into consideration the state's need to collect the funds from the tax payers, in order to meet the public needs, which are greater and greater in the present stage.

Through a documentary research, this paper identifies the dimension and the general principles in order to collect and administer the public funds efficiently, under the actual European and national conditions.

In the content of the paper, we make a detailed analysis of the main objectives regarding the following aspects: the concept of budgetary incomes system, the sources of origin, the ways of collecting and using them to pay off the public debt.

If these principles are applied, essential changes regarding the incomes and the public debt will take place, leading to a better enforcement of the legal national provisions and the European Directives, in order to harmonise the national legislation with the European Union legislation.

Keywords: budgetary incomes, public debt, financial public resources, tax payer, income taxes

JEL Classification: K 20

1. In all the nations, the state had and still needs financial resources to finance its expenses and support itself from the public incomes, which it collects from the tax payers, the non-corporate or corporate bodies.

Unlike private persons, which aim to maximise their own utilities, the expenses are undertaken according to the limited interest of the one who makes them, the state aims to achieve incomes in order to invest money in those fields which are not capable of getting finance by themselves, this aspect being beneficial to the entire society. According to the doctrine, in order to designate the state's resources or funds, various designations are used, such as: "public incomes"¹, "financial public resources"², "budgetary incomes"³.

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¹ N. G. Leon, Elements of financial science, vol. 1, p. 198-200; D.D. Șaguna, Financial and fiscal law, Publish. House All Beck, 2003, p. 329.

² I. Văcărel, G. Anghelache, Gh. D. Bistriceanu, T. Moșteanu, F. Bercea, M. Bodnar, F. Gergescu, Public Finance, The Didactic and Pedagogic Publishing House, 4th edition, Bucharest, 2003, p. 338 and the next one.

We believe that the designation "budgetary incomes" expresses better the nature and the destination of these resources; for this reason, we especially want to analyse them from the angle of the state's public debt and its central or local bodies.

We mentioned in our study that it was made a clear distinction among the notions *wealth*, *collection* and *income* in the older doctrine. Thus, it was mentioned that "wealth" is considered someone's amount of goods, at a certain moment, above its current needs⁴. *Wealth* is able or is not able to bring out *incomes*.

For the budgetary incomes, one has to take into account that the state achieves them through its activity, through the coercion of income taxes and other taxes, as well. Therefore, by rights it was asserted that for the state, all the goods it gets in a certain period of time are called incomes, not having the obligations to refund them. The income sources of the state are the citizens' wealth and incomes⁵.

In the broader category of the budgetary incomes, it must be also included the non fiscal incomes such as those obtained from the economic activities carried out by the state's enterprises, from the efficient use of the state's goods, donations, vacant successions, money issue, monopolies, etc.

The financial public resources together with the financial private resources are the society's financial resources. Therefore, the relation between the society's financial resources and the financial public resources is a relation between a whole and a part. The financial public resources, the public funds or the total public funds include the resources of the central and local state administration, the resources of the social state insurance and resources of the public autonomous institutions.

The actual allocation of resources between the public and the private sector establishes a certain proportion between them, enabling the optimisation for the allocation of resources if the customers' needs are fully met, through the public and private sector⁶.

Regarding the financial public resources, taking into consideration the opinions from the specialty literature and practice, after the undertaken research, we reached the conclusion that these public incomes are the money means, instituted by law, which contributes to the collection of funds available to the state, as necessary means to reach the economic and social goals in a certain period of time, having no obligation to refund them.

Lately, we have noticed that the demand for public incomes has been on an increasing trend, owing to the rapid growth of the social needs, the role and the functions of the state and implicitly the public expenses, a rhythm that surpasses all around the world the increasing rhythm of the gross domestic product.

³ M. Șt. Minea, The law of public finance, Publish. House Accent, p. 92; C. D. Popa, A. Fanu-Moca, Financial Law, Publish. House Lumina Lex, 2003, p. 85.

⁴ N. G. Leon, Elements of financial science, vol. 1, p. 198-200.

⁵ Idem.

⁶ I. Văcărel and collaborators, op. cit. p. 339.

If we analyse the population's capacity of contribution, implicitly the effective collection of the public incomes available to the state, we noticed it is influenced by the following aspects:

- the evolution of the gross domestic product whose growth can lead to the increase of the taxable incomes, respectively of the financial resources available to the state or, depending on the case, their decrease;
- monetary factors, which can influence prices through interests, monetary mass, loans, etc⁷. The increase of prices and inflation establishes the growing resources from income taxes and other taxes;
- demographic factors which can influence the number of the active population and the increasing number or the decreasing number of the tax payers and the population that benefit, in various ways, from the use of the public resources;
- political, social and military factors which establish the redistribution of resources in order to meet the education, protection, social insurance, health, national defence and safety needs; these factors, under certain circumstances, can lead to growing resources which have effects upon the fiscal rate;
- financial factors, which synthesize and cumulate the influence of other factors, according to the degree of the public expenses. The volume of the public expenses influences the growth of the budgetary deficit and its security requires additional public resources.

It is also noticed that the growing need for resources available to the state had and still has as consequence a diversification of the means so as to achieve them, which aims mainly at the fiscal incomes. In the field of state monopolies, the exploitation of the state's goods, the economic activities carried out by administrations or companies with state capital, certain measures are taken to increase the public incomes. These are achieved by: the obligatory withdrawals, consisting of tax incomes, other taxes, contributions; incomes from economic activities and efficient use of the state's goods; random incomes resulted from: donations, vacant successions, non-owned goods, the resources resulted from public loans, the monetary issue.

One should notice that the financial public resources are divided according to: economic criteria, the structure of the budgetary system; they are got and administered through the unitary budget system, namely: the state budget, the state's social insurance budget, the local budgets, the budgets of the special funds, the budget of the state treasury, the budgets of the public institutions.

We noticed that there are many categories of incomes in our budgetary system, which are at the basis of the already mentioned budgets, such as: resources of the state budget resulted from: current incomes, capital incomes and money collections resulted from the reimbursement of the granted loans.

⁷ See also L. Bercea, Money and banks. A legal perspective, Publish. House Universităţii de Vest, Timişoara, 2006

Other incomes that contribute to the achievement of the budgetary incomes are the current ones, such as: fiscal incomes resulted from direct and indirect taxes; non fiscal incomes resulted from loans, monetary issue, donations, etc.

The resources of the local budgets have a great importance in achieving the state's budgetary incomes, consisting of: the own fiscal and non fiscal incomes (e.g. the sums resulted from rents, the selling of certain goods or publications, the efficient use of certain products resulted from their own activity), etc.

We identified the following incomes in the category of public non fiscal incomes: incomes resulted from the economic activities and the sale of the state's goods, incomes resulted from the state's, district's or village's property or exploitation, which have properties they exploit by themselves or appoint other persons to exploit them .

It was mentioned in the specialty literature that the European states, especially those with a precarious financial situation, achieved incomes by selling land, mainly farm and forest land, if the state cannot exploit or manage these resources efficiently. Romania was not an exception; after 1989, the selling of the state's goods, concentrated in its hands through nationalisation, perpetuated within the privatisation process, but the efficiency and the fairness of the process was and still is a subject of dispute at the political and juridical level⁸.

A significant part of the public incomes is also achieved through the state monopolies⁹, concerning certain products, such as: salt, alcoholic beverages, tobacco, or through the manufacturing and commercialisation activities, such as: the manufacturing and commercialisation of dopes and medicines containing doping substances, the extraction, the manufacturing and industrial processing of precious metals and precious stones, the manufacturing and the issue of postal and fiscal stamps, etc even if it is an indirect tax; all these depend on the state's coercive power. In Romania, the aspects referring to the state monopoly are regulated by the Law no. 31/1996 regarding the regime of the state monopoly¹⁰.

⁸ In this respect, art. 29 of The Law no. 273/2006 regarding the local public finance, provides that the sums resulted from the selling, according to the law, of certain goods belonging to the private sector of the administrative-territorial units are totally considered incomes of the local budgets and are included in the development section, by the local budgetary rectification, if collected. The law was published in The Official Monitor, Part 1 no. 618, July 18, 2006 and modified, inclusively through The Emergency Ordinance no. 102/2011, published in The Official Monitor, Part 1 no. 854, December 2, 2011.

⁹ See also: I. Văcărel, F. Bercea and collaborators, Public finance, 3rd edition p. 424, C. Popa and Fanu-Moca, Financial law, Publish. Lumina Lex, 2003, p. 127.

¹⁰ The Law no. 31/1996 regarding the regime of the state monopoly, published in The Official Monitor, Part 1 no. 96, May 13, 1996, modified according to The Law no. 171/2001, published in The Official Monitor, Part 1 no. 184, April 11, 2001. According to art. 1 of The Law no. 31/1996, modified, the state monopoly is considered the state's right to establish the permission regime of the economic units, which have state and private capital, including the private producers, depending on the case, to the economic activities, which make up the state monopoly and the conditions to exercise them.

Monopolies offer an exclusive right in a field of activity (manufacture, commerce, exploitation of goods), the incomes achieved by the state from monopolies, consisting of both the profit achieved during the process of manufacturing, selling, exploiting, which the state achieves as every economic unit, under privileged conditions, and the indirect tax is included in the price, being collected from the consumers of these goods.

Nevertheless, when the state has an exclusive right in a field, it does not exercise the right to levy taxes on certain non corporate or corporate bodies by obliging them to make contributions, but the state exercises a right of regulating certain economic activities which it preserves to exclusively carry them out, even if this aspect is undertaken to make budget incomes. Ordinarily, the incomes on the activities made under monopoly conditions should be higher than those achieved from the taxes included in the prices of the products made by the state monopolies, except the case in which the profit is the exclusive result of including certain taxes in the selling price of the products. But, in the latter situation we cannot speak about an economic activity of the state. And if, in case of monopolies, the state's incomes have two components: those resulted from profits and those resulted from taxes, then the inclusion of the fiscal monopolies in the category of indirect taxes is subject to criticism. But, undoubtedly the tax on the product consumption made under monopoly conditions is an indirect tax, too.

Unlike the situation in case of other taxes, income taxes, contributions, the coercive power is exercised by the state against the tax payers from which it collects them, according to the measures of authorities; in case of state monopolies, the state preserves only a right, an activity, a certain type of commerce from which it gets an income, which is different from the income resulted from a levied tax¹¹.

The important incomes, made by the state from the fiscal monopolies consist, on the one hand, of the profit resulted from the manufacturing process of these goods, which the state achieves as every entrepreneur, and on the other hand, of the indirect tax included in the price, collected from the consumers of these goods. Only the state is entitled to produce and sell these goods, having the right to establish the price including the indirect tax.

We also enumerate a few countries with fiscal monopolies that bring out relevant collections: Italy (on tobacco and matches), Germany (on alcohol or alcoholic beverages), Spain (on tobacco and oil) and Tunis¹².

A way to finance the budgetary deficit is the uncovered money issue, which yet has negative effects on a medium and long term, too. It should be noticed that, on a short term, on the one hand, an increasing inflation leads to the increase of the fiscal resources, by enhancing the collections resulted from the income taxes and indirect taxes, especially those belonging to the value-added tax and fuel taxes; this aspect is

¹¹ I. Văcărel and the staff, op. cit., p. 424.

¹² I. Văcărel and collaborators, op. cit. p. 424; V. Roș, Financial law. The budgetary system, Publishing House Universul Juridic, Bucharest, 2009, p. 243.

the advantage of the uncovered money issue. On the other hand, the inflation establishes, in real terms, a decrease of the state's payment obligations, mainly regarding the public debt, when the interest rate for the state loans is below the yearly increase of prices, expressed in percentages.

Some authors include the treasury resources in the ways of getting financial public resources. The provision of concordance between the level of expenses and the level of incomes establishes the resort to the treasury resources, consisting of loans on one year term, which are contracted on the capital market, by issuing and selling certain state titles (deposit certificates, treasury bonds, etc.). Treasury resources are used to cover temporarily the present deficit of the state budget, the social insurance budget, to fill the gaps of the cash registers registered at the local budgets and the temporary deficits of the budgets for special funds. The treasury resources are temporary and refundable, involving costs determined by the interest for the state titles on a short term and the expenses related to the wide use and withdrawal of these titles.

We think that treasury resources cannot be income sources for the state budget, being used, as a rule, for consumption; This way, they do not produce value-added taxes, the payment of interests and the loan reimbursement being paid from the budgetary fiscal incomes, meaning income taxes and other taxes.

The second important aspect of our study and analysis is the public debt, which has two origins: the first one is represented by the expenses that surpass the incomes, whereas the second one is represented by loans, which are made, as a rule, to meet the expenses of the deficit caused by the excessive expenses.

The expenses which surpass the incomes trigger the state loans. For this reason, sometimes it is asserted that the public debt is generated by the state loans, either domestic or foreign.

We do believe that the indebtedness degree of a country is given by the reation between the balance account of the public debt and the gross domestic product; this index shows to what extent the value added tax to the gross domestic product for one year is subject to severe conditions or to what extent the gross domestic product must be used within a year for the payment of the public debt. However, no country is able to allocate the entire gross domestic product to pay the public debt; for this purpose only a part of the GDP is useful, as it remained after the withdrawals necessary to the consumption fund and the achievement of gross capital. Among the countries with the greatest volume of public debt we enumerate: U.S.A., Germany and Great Britain; among the countries with the greatest index per inhabitant for the public debt we enumerate: Switzerland, U.S.A., Austria, Germany, Netherlands, Great Britain and Norway.

The public debt of the state results from the total amount of money indebtedness the state has to pay to any person entitled to collect the payment or the equivalent of the service provided to the state or to its bodies and whose price was not paid, the damages the state must pay to the complainants according to administrative deeds, or according to trial verdicts. The Emergency Ordinance of

The Government no. 64/2007 regulates the public debt¹³, in the 2nd article, defines public debt as being the total amount of money indebtedness such as the government and the local public debt; the government public debt consists of the total amount of the state's debts at a certain moment, resulted from refundable financing according to contracts or guaranteed by The Government through The Ministry of Economy and Finance, whereas the local public debt is the total amount of the administrative and territorial units' indebtedness, at a certain moment, resulted from refundable financing according to contracts or guaranteed by the authorities of the local public administration. The public debt can be expressed both in national and foreign currency; to evaluate Romania's public debt, any indebtedness expressed in foreign currency is calculated according to the national currency, using the exchange rate stated by The National Bank of Romania on the latest banking day of the reporting period.

Furthermore, there are opinions according to which the public debt consists of the totality of pecuniary money indebtedness contracted by the state, the administrative-territorial units, and other public entities as well, through loans, from the Romanian and foreign corporate and non corporate bodies, which are going to be reimbursed at a certain moment. According to these opinions, the debt is the amount which must be paid according to a capital title, interests and other expenses for the loans made by the state or the total amount which must be paid for the refundable financing.

The service of the public debt is provided by the total amount represented by capital rates, interests, commissions and other costs belonging to the public debt, resulted from refundable financing or guaranteed by The Government, through The Ministry of Public Finance, or by the administrative-territorial units, through the authorities of the local public administrations, for a determined period of time.

We proposed ourselves to make a brief analysis of the general framework and the principles of the public debt administration, regulated by The Emergency Ordinance of The Government no. 64/2007.

The management and the administration of the public debt is provided by law, by the Ministry of Public Finance, which has the authority to establish the daily balance of the general account of the state treasury, the prospective degrees of demand for liquidities, the expiration of the public debt, the accounts with the adequate interest and the refinancing or the decrease of the public debt.

Therefore, The Ministry of Public Finance must undertake an ensemble of operations regarding the dimension, the structure, the decrease and the evolution of the public governmental debt, including the refunding/reimbursement, the modification of its characteristics, the registration and its report and as well as the management of the risks related to the public government debt and the undertaking

¹³ The Emergency Ordinance no. 64/2007 regarding the public debt, was published in The Official Monitor, Part 1 no. 439, June 28, 2007, modified according to The Law no. 324/2009 inclusively, published in The Official, Monitor, Part 1 no. 713, October 22, 2009.

of an ensemble of operations for the authorisation and monitorisation of the local public debt.

The public credit can be domestic or foreign and so the public debt can.

The domestic public debt is the part of the public debt which represents the total amount of the state's indebtedness, resulted from loans contracted directly or guaranteed by the state for the national market, including the sums received temporarily from the sources of the state treasury. It is the state's unconditioned and irrevocable obligation to reimburse the loans in Lei, to pay the interests and other afferent costs.

Unlike the domestic public debt, the foreign public debt is a part of the public debt representing the total amount of the state's indebtedness, resulted from loans on the foreign market, which are contracted directly or guaranteed by the state. Also, this debt is the state's unconditioned and the irrevocable obligation to reimburse the loans contracted on the foreign market, together with the payment of interest and other afferent costs.

In order to payoff these debts, except the sources mentioned to achieve the necessary incomes, the state must make loans on a short, medium or long term.

The state loan on a short term creates the public floating debt, meaning the debt contracted to cover certain budgetary deficits, certain unforeseen expenses or other requirements of this kind; it must be reimbursed, as a rule, in the same year or in the same budgetary exercise, being postponed from one budgetary exercise to another, at the most.

Long term loans generate the public consolidated debt, which represents the result of the state loans contracted on longer terms, for money needs or public expenses which, in time, maintain themselves many years or even have an unlimited perspective in time and according to this unlimited perspective the public consolidated debt can be refundable and permanent.

The public refundable debt can be refunded in due time without contracting new loans, whereas new public loans are required for the refund of the public permanent debt

For the service of the public government debt, there are payment sources as follows: the availability of the current general account of the State Treasury, the refundable financing on the state's behalf, refinancing the public government debt, the expenses provided in the state budget, the budget of The State Treasury and further on, the state budget, in case of paying the interests for the benchmark¹⁴ state

¹⁴ The benchmark state titles are financial instruments on a medium and long term period, having the following characteristics:

- the coupon rate, as the yearly interest rate for the benchmark state titles is established before their launching and it is mentioned in the issue prospectus;
- the issue date is the discount day for the series of the benchmark state titles;
- allow reapertures, having the same characteristics with the initial issue, respectively ISIN, the coupon rate, the date of the coupon payment and the expiration date; the reaperture date is the date the nominal value of the benchmark state titles in use increases;

titles, the sums collected from subloaners by The Ministry of Economy and Finance, according to the agreements made with them, obeying the conditions of the agreements, which involve the refundable financing, the sums provided in the budgets of the corporate bodies which contracted refundable financing with the state's warranty, the risk fund made by The Ministry of Economy and Finance for the situations in which the subloaners do not fulfil their obligations provided in the agreements with The Ministry of Economy and Finance, the State Treasury sums in the account of the loans with the state's warranty contracted by the credit officers or The Ministry of Economy and Finance, which are subloaned by them and taken over to be managed by The Ministry of Economy and Finance and other sources as well, according to the law.

The National Bank of Romania, according to the agreements made with The Ministry of Economy and Finance, acts as a state agent to refund the public government debt contracted in a foreign currency and organise auctions for the state titles on the domestic market.

For the activities undertaken by The National Bank of Romania as a state agent in order to reimburse the public government debt and offer the issue of state titles to third parties, The Ministry of Public Finance is entitled to pay commissions from the state budget, whose quantum is established in the agreement between the two parties.

According to the provisions in article 3, paragraph 5 from The Emergency Ordinance, the incomes, respectively the expenses resulted from the managerial operations for the public government debt, represent incomes, respectively expenses of the budget state or the budget of The State Treasury; for this reason, an analysis of the budgetary incomes cannot be made without an analysis of the budgetary expenses, too.

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- the coupon is paid annually, the date of the coupon is a standard date established in the issue prospectus;
 - The interest payment for these titles is done from the budget of The State Treasury, according to the budgetary loans approved for this destination, in the state title 55.09, article 30.01, paragraph. 30.01.01 "Interests belonging to the direct public domestic debt" and further on from the state budget, chapter 55.01 "Transactions regarding the public debt and loans", the state title 30 "Interests", article 30.01 "Interests belonging to the public domestic debt";
 - the expiration date coincides with the date of the latest coupon;
 - the accumulated interest is the interest calculated for the period mentioned in the coupon, which is anterior to the issue/reaperture date and the issue/reaperture date, according to the coupon rate, following the up-to-date/up-to-date method;
 - the accumulated interest will be mentioned in the issue prospectus for the series of the benchmark state titles and it will be paid by the participants in the primary market for the state titles when the discount/reaperture issue takes place;
 - the net price is the multiplication between the price quotation expressed in 4 decimals and the nominal individual value of a state title;
 - the gross price is the sum between the net price and the accumulated interest (art. 2¹ in The Emergency Ordinance no. 64/2007 regarding the public debt).

To conclude, we mention that the need for state loans in order to provide public incomes, must take into account the relation between the debt and the national income, otherwise loans are unsafe and budgetary deficits appear.

Also, we reached a doubtless conclusion that the indebtness degree of a country is given by the relation between the degree of the public debt and the gross domestic product, meaning the extent to which the value added to the gross domestic product within a year must be used to pay the public debt within a year, taking into consideration that a country cannot allocate the gross domestic product to pay the public debt. At this moment, certain resources must not be consumed because they must be available to the prospective consumption.

The analysis of the structural deficit dynamics in relation to the economic approach towards the economic cycle, will enable us to estimate to what extent the fiscal policy acts as a stabilizer, or the opposite.

The accumulation of these budgetary deficits from one year to another leads to even higher levels of public debt; a state which has more and more debts eventually will go to bankruptcy, because the non refunded public loans become higher and higher and this consequence makes them harder to pay off.

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