



Fiscal Council's Opinion on the legislative proposal on amending Law no. 227/2015 on the Fiscal Code – b389/02.09.2021

On September 16th, 2021, the Fiscal Council (FC) received the address of the Romanian Senate no. XXXV/4394 din 06.09.2021, by which it is requested, in accordance with the provisions of art. 53 para. (2) lit. e) from the Law on fiscal responsibility no. 69/2010 republished (FRLB), the opinion on a legislative proposal on amending Law no. 227/2015 on the Fiscal Code – b389/02.09.2021.

According to the article of law to which reference is made, the attributions of the Fiscal Council are:

e) analysis and elaboration of opinions and recommendations, both before approval by the Government and before transmission to Parliament, on annual budget laws, budget revisions, as well as on other legislative initiatives that may have an impact on budget expenditures, while also assessing their compliance with the fiscal rules and principles provided by this law;

In relation to the present request, are relevant also the provisions of art. 21 of the FRL, according to which *"in cases where proposals are made for normative acts that lead to a decrease in budgetary revenues, the financial statement will be prepared according to the provisions of art. 15 of Law no. 500/2002, as subsequently amended and supplemented, which must meet at least one of the following conditions:*

a) to have the approval of the Ministry of Public Finance and the Fiscal Council, according to which the financial impact has been taken into account in the budget revenue forecast and does not affect the annual and medium-term budgetary targets;

b) to be accompanied by proposals for measures to compensate for that financial impact, by increasing other budgetary revenues."

Brief description of the legislative proposal

The legislative proposal subject to examination by the Fiscal Council envisages the extension of the period in which individuals/companies may redirect part of the personal income/corporate income tax to the beneficiaries defined by law from 1 to 7 years, starting with 2022. Amounts that can be transferred remain the current ones, 3.5% of the personal income tax paid by

individuals and 20% of the one paid by companies. In the explanatory memorandum, the proposal is argued by the percentage considered low of taxpayers who use this provision.

Budgetary impact of the proposal

Without being accompanied by the financial statement setting out the budgetary impact, in the explanatory memorandum is presented only the existing situation at the level of 2019, when the amounts transferred represented in the case of personal income tax 0.61% compared to a theoretical maximum of 3.5%, while in the case corporate tax represented 8.1% compared to a theoretical maximum of 20%.

Assessments of the Fiscal Council regarding the legislative proposal

Regarding the compliance with the provisions of art. 21 of the FRL, described above, the Fiscal Council has the following observations:

- The legislative proposal is not accompanied by the financial statement in which its impact on the general consolidated budget is presented.
- In order for the premises for the issuance of the FC endorsement to be met, it is necessary that:
 - The proposal must be accompanied by an impact on the budget revenue forecast, together with an indicator of elements leading to the achievement of the annual and medium-term budgetary targets, *or*
 - The proposal should be accompanied by measures to compensate for the respective financial impact, by increasing other revenues.
- In the absence of the financial statement or of a complete budgetary projection showing that the proposal does not affect the annual and medium-term budgetary targets, as well as given that no measures are provided to compensate for the financial impact of the legislative proposal on the general consolidated budget, the Fiscal Council cannot endorse this legislative proposal.
- The Fiscal Council considers that this legislative proposal can have a considerable negative budgetary impact. For example, according to FC calculations, considering the budget revenues from income and corporate tax from 2019, the difference between the existing situation and a 100% appeal of taxpayers to this provision, the maximum negative impact from the perspective of the consolidated general budget could be of 2.8 billion lei. Of course, this is a maximum impact, but this legislative proposal makes it more likely that these amounts will be redirected and will therefore adversely affect the general consolidated budget situation. In addition, in the FC's opinion, another problematic issue associated with this legislative proposal is the uncertainty it generates about the budget execution. For example, in a few years the general consolidated budget could be

burdened with obligations representing transfers to the beneficiaries defined by law cumulated over a number of years, the financial impact being a major one.

- Moreover, the Fiscal Council also notes that those taxpayers who wish to redirect the percentage provided by law from personal income/corporate income tax can do so within the existing legislative framework.

The opinions and recommendations formulated above by the Fiscal Council were approved by the Chairman of the Fiscal Council, according to the provisions of art. 56, para (2), lit. d) of Law no. 69/2010 republished, after being agreed by Council members, through vote, on October 13th, 2021.

October 13th, 2021

Chairman of the Fiscal Council

Professor DANIEL DĂIANU