

## FREE COUNSELING OF INDIVIDUALS IN THE FIELD OF TAXATION

Florin-Ionel TRUȘCĂ\*

### ABSTRACT

*The article approaches the possibility of setting up public institutions that protect citizens' rights by providing a public service for counseling individuals in the field of taxation. The article analyzes both the taxpayers' assistance / assistance activity and the fairness of taxation or fiscal equity, principles on which Romanian tax legislation is based. The article argues that taxpayers' guidance / assistance is insufficiently regulated by looking at the possibility of setting up a public counseling service for individuals in the field of taxation. Seen as a service of public interest, free counseling of individuals in the field of taxation help to increase the welfare of taxpayers, on the one hand, and to prevent situations that may generate the triggering of fiscal control or forced execution mechanisms, on the other hand.*

*Cuvinte cheie:* counseling, protection, individuals, principles, prevention.

### Introduction

*"It is clear to all that human rights are not rights as all others. Human rights have a political, social, emotional burden that indisputably identifies them. They were the subject of battle, of claims, they were not easily recognized in all cases." <sup>1</sup>*

In Romania, after the fall of the communist regime and the finalization of the accession negotiations with the European Union, the legal norms of fiscal law were not based on the subjective rights of the citizens.

*"Open to those european countries which assume their values: respect for human dignity, freedom, democracy, the rule of law, and human rights, and which are committed to promoting them jointly, in accordance with their obligations following accession, The Union shall promote economic, social and territorial cohesion as well as solidarity between member states." <sup>2</sup>*

The *acquis communautaire* that Romania had to implement in order to be admitted as a member state of the European Union and the fulfillment of the measures established through the cooperation and verification mechanism forced

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\* PhD. student, National School of Political Studies and Public Administration, Doctoral School-Administrative Sciences, Bucharest.

<sup>1</sup> V. D. Zlătescu and I. Moroianu-Zlătescu, *Landmarks for a human rights philosophy*, IRDO, Bucharest, 2003, pp. 10-11.

<sup>2</sup> I. Moroianu-Zlătescu, *Human rights: an evolving system*, Ed. I.R.D.O., Bucharest, 2008, p. 119.

the executive and the legislative power to take progressive national measures ensuring the recognition and enforcement citizens' rights.

Thus, starting with 2004, the fiscal law in Romania - a sub-branch of financial law - was structured by two codes, which aimed at systematizing the tax legislation by bringing it in line with the principles of the European Union.

One of the codes regulated the legal framework for taxes that constituted the state budget and the local budgets, being adopted by Law no. 571/2003<sup>3</sup> on the Fiscal Code - repealed on 1 January 2016 by Law no. 227/2015 regarding the Fiscal Code<sup>4</sup>.

The Fiscal Code became the first fiscal law to promote the development of clear legal rules so taxpayers can track and understand their tax burden and be able to influence the impact of their financial management decisions on taxes.

The second code was adopted by G.O no. 92/2003 on the Fiscal Procedure Code<sup>5</sup>, approved by Law no. 174/2004<sup>6</sup> - repealed on 1 January 2016 by Law no. 207/2015 on the Fiscal Procedure Code<sup>7</sup> and was the basis for the application of all the special legal acts addressed to the taxpayer. The Fiscal Procedure Code - the first normative act governing the non-contentious administrative procedure in the tax field - is based on both taxpayers' rights and obligations, while regulating the work of central and local tax authorities to manage tax receivables.

Due to the constant concern of regulating revenues at European Union level, in recent years the Romanian tax system has improved. However, shortcomings remain as regards transparency of decision-making and access to information.

In a rule of law, collective needs and the means used to fulfill them must be balanced in such a way that the burden of taxation on the members of society is achieved in a fair way.

Access to information is also essential to enable citizens, which as creditors - debtors, to monitor the work of the administration, to be informed of the decisions that may affect them and to claim their rights.

In Romania, these things are done under the fundamental law that "*regulates the rights and freedoms of citizens considered as rules of political game, after which all the citizens of the country, the public authorities, as well as the political actors involved in the governance of the Romanian state*".<sup>8</sup>

These facts give rise to good administration - a fundamental right guaranteed by article 41 of the Charter of Fundamental Rights of the European Union<sup>9</sup>.

<sup>3</sup> Published in Official Gazette Part I nr. 927 of december 23, 2003.

<sup>4</sup> Published in Official Gazette Part I No. 688 of september 10, 2015.

<sup>5</sup> Published in Official Gazette Part I No. 941 of december 29, 2003.

<sup>6</sup> Published in Official Gazette Part I No. 465 of may 25, 2004.

<sup>7</sup> Published in Official Gazette Part I No. 547 of july 23, 2015.

<sup>8</sup> I. Vida, Constitutional Court of Romania: Political Justice or Politics of Justice ?, Official Gazette R.A., Bucharest, 2010, p. 13.

<sup>9</sup> The Charter of Fundamental Rights of the European Union was proclaimed by the European Commission, the European Parliament and the Council of the European Union at the Nisa European Council of december 7, 2000, as amended in Strasbourg on december 12, 2007. The Charter acquires legal value on December 1, 2009, with the entry into force of the Treaty of Lisbon amending the Treaty on European Union and the Treaty establishing the European Communities, signed in Lisbon on

Ombudsmen also play an important role in achieving good governance. Gavin Drewry said that Ombudsmen have a deterrent effect in cases of abuse from public administration, and their recommendations show the irregularities identified in their work, thus contributing to the spread of good governance principles.<sup>10</sup>

*"The protection of fundamental rights is one of the essential elements of the identity and movement of integration at the EU scale."*<sup>11</sup>

## Principles regulated in the romanian tax legislation

### 1.1. Principles on which the taxes and duties regulated by the Fiscal Code are based

Principles initially established by Law no. 571/2003 regarding the Fiscal Code were: the neutrality of fiscal measures; the certainty of taxation; fiscal equity at the level of individuals; efficiency of taxation<sup>12</sup>.

At present, Law no. 227/2015 on the Fiscal Code regulates the following principles: neutrality of fiscal measures; the certainty of taxation; fairness of taxation or fiscal equity; the efficiency of taxation; predictability of taxation.

Among the principles laid down in the Fiscal Code that ensured the taxpayer's correct guidance in order to meet his tax burden, so as not to be adversely affected, include:

- *the certainty of taxation*<sup>13</sup>, ensures the development of clear legal rules that do not lead to arbitrary interpretations and each taxpayer can pursue and understand his tax burden as well as be able to determine the influence of their financial management decisions on their tax burden;

- *the effectiveness of taxation*<sup>14</sup>, ensures the long-term stability of the provisions of the Fiscal Code in such a way that it does not produce unfavorable retroactive effects for natural or legal persons in relation to the taxation in force at the date of their adoption of major investment decisions;

- *fairness of taxation or fiscal equity*<sup>15</sup>, ensures that the tax burden of each taxpayer is determined on the basis of contributing power, respectively according to the size of its income or property;

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december 13, 2017, published in OJ C 306 of december 17, 2007. Romania ratified this Treaty by Law no. 13/2008 for the ratification of the Treaty of Lisbon amending the Treaty on European Union and the Treaty establishing the European Community, signed in Lisbon on december 13, 2007, published in Official Gazette Part I No. 107 of february 12, 2008.

<sup>10</sup> G. Drewry, "The ombudsman: Parochial Stopgap or Global Panacea?" in P. Leyland and T. Woods, Administrative Law Facing the Future: Old Constraints and New Horizons, Blackstone Press, 1997, p. 83.

<sup>11</sup> S. Van Raepenbusch, Institutional law of the European Union, Rosetti International, 2014, p. 356-357.

<sup>12</sup> Art. 3 lit. d) of Law no. 571/2003 on the Fiscal Code, regulate: "*d) the efficiency of taxation by ensuring the long-term stability of the provisions of the Fiscal Code so that these provisions do not lead to unfavorable retroactive effects for natural and legal persons, in relation to the taxation in force at the date their adoption of major investment decisions.*"

<sup>13</sup> G. N. Lăcrița, The Dictionary of the Fiscal Code, Economic Tribune, București, 2010, p. 32.

<sup>14</sup> Ibid, p. 81.

<sup>15</sup> Art. 3, lit. (c) of Law no. 227/2015 on the Fiscal Code currently provides that "*c) the fairness of taxation or fiscal equity ensures that the tax burden of each taxpayer is determined on the basis of the contributing power, respectively according to the size of its income or property.*"

– *predictability of taxation*, ensures the stability of taxes, taxes and mandatory contributions for a period of at least one year in which no changes can be made in the sense of increasing or introducing new taxes, taxes and mandatory contributions.

Starting with 2016, the principle of *tax effectiveness* (which is essential to protect the taxpayer against the arbitrary decisions of the executive authority) has been modified, so that the legal norm no longer regulates the stability of the provisions of the Fiscal Code in such a way that it does not produce *retroactive effects unfavorable to taxpayers*.

## ***1.2. Principles underlying the administration of taxes regulated by the Fiscal Procedure Code***

G.O. no. 92/2003 on the Fiscal Procedure Code regulates the following rights and obligations: the unitary application of the legislation, the exercise of the right of appreciation, the active role<sup>16</sup>, the official language in the tax administration, the right to be heard, the duty of cooperation, the fiscal secret, the good faith.

Law no. 207/2015 on the Fiscal Procedure Code regulates the following rules of conduct: the principle of legality, the unitary application of the law, the exercise of the right of assessment, the active role and other rules of conduct for the fiscal body, the official language in the tax administration, the right to be heard, duty of co-operation, tax secrecy, good faith.

Among the principles laid down in the Fiscal Procedure Code, which provides the taxpayer with access to information and the right to claim his rights, includes:

- *the active role*<sup>17</sup>, according to which the taxpayer receives guidance on the application of tax legislation, by the tax authority, on request or ex officio;
- *exercising the right of appreciation*<sup>18</sup>, according to which, in exercising its appreciation, the tax authority must take into account the opinion given in writing by the tax authority competent to that taxpayer / payer in the course of taxpayer / payer assistance and guidance, and the solution adopted by the taxpayer the fiscal

<sup>16</sup> Art. 7 para. (5) of the G.O. no. 92/2003 on the Fiscal Procedure Code, provided that: "(5) *The fiscal body shall guide the taxpayer in the application of the provisions of the fiscal legislation. Guidance may be given either as a result of the taxpayer's request or on the initiative of the tax authority.*"

<sup>17</sup> G. N. Lăcrița, *The Dictionary of the Fiscal Procedure Code*, Economic Tribune, Bucharest, 2010, pp. 184-185.

<sup>18</sup> Art. 6 para. (1) of the Law no. 207/2015 regarding the Fiscal Procedure Code currently provides that: "(1) *The fiscal body is entitled to determine, within the limits of its responsibilities and relevance of facts tax by using evidence provided by the law and adopt the solution based on the legal provisions, as well as on the complete findings of all the edifying circumstances in question at the time of the decision. In exercising its discretion, the tax authority must take into account the opinion given in writing by the competent fiscal body that taxpayer / payer in the course of assistance and guidance to taxpayers / payers and the approach adopted by the tax authorities in an administrative fiscal or court by a final judgment previously issued for similar factual situations to the same taxpayer / payer. Where the tax authorities find that there are differences between the actual fiscal situation of the taxpayer / payer and the information considered in issuing a written opinions or administrative action tax the same taxpayer / payer, the tax authority has the right to record their findings in accordance with the actual tax and tax legislation and has the obligation to state in writing the reasons for not taking into account the prior opinion.*"

body in a fiscal administrative act or the court by a final judgment previously issued for similar factual situations to the same taxpayer / payer.

Starting with 2016, the principle of *active role* has been changed, eliminating the obligation of the fiscal authority to guide the taxpayer in the application of tax legislation. At the same time, among the other activities carried out by tax authorities in the administration of receivables, the assistance / guidance of taxpayers / payers, which can be done on request or ex officio, has been included.

## 2. Assistance and guidance to taxpayers

The problems of social life codification, those of achieving a high performance of social activity can not be treated empirically but directly related to social action, given the specificity in which individuals manifest themselves as active personalities within the structured social structure. This involves investigating and scheduling the social action of people in a direct relationship with that particular framework in which individuals manifest and integrate.<sup>19</sup>

The administration must serve man, the citizen and his fundamental needs, and ensure the satisfaction of the general interest of the human community. Taxpayers must be guided through direct assistance at the headquarters, through written correspondence, e-mail, telephone, and others.<sup>20</sup>

According to the non-contentious administrative procedure in the fiscal field, the administration of the tax receivables is accomplished through the following activities:

- tax registration of taxpayers and other subjects of tax legal relationships;
- declaration, establishment, control and collection of tax receivables;
- resolution of appeals against tax administrative acts;
- assistance / guidance of taxpayers, on request or ex officio;
- applying sanctions under the law.

Among the above-mentioned activities, we analyze taxpayers' assistance / guidance activities at the level of central tax authorities and local tax authorities.

Taxpayer assistance / guidance activity is a public service - free of charge, stemming from the provisions of art. 31 and art. 47 of the Romanian Constitution of 1991<sup>21</sup>, revised by Law no. 429/2003<sup>22</sup>, according to which citizens have unrestricted and free access to information. Moreover, the central and local public administration authorities are obliged to ensure that citizens are properly informed about public affairs and issues of personal interest. This implies that public administration provides a transparent public service in the interest of citizens.

Analyzing the tax regulations regarding the assistance / guidance of taxpayers, during 2004-2017, we find that at the level of the central fiscal bodies there is the

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<sup>19</sup> V. Pătulea, *Treaties of legal and jurisdictional management*, IRDO, Bucharest, 2010, p. 25.

<sup>20</sup> E. Bălan, *Administrative procedure*, University Ed., Bucharest, 2005, p. 63.

<sup>21</sup> Published in Official Gazette Part I No. 233 of november 21, 1991.

<sup>22</sup> Published in Official Gazette Part I No. 758 of october 29, 2003.

Order of the Minister of Public Finance no. 137/2004<sup>23</sup> approving the *Code of Ethics of the civil servant in the tax administration, which carries out its activity in the field of taxpayers' assistance* and the Order of the President of the National Agency for Fiscal Administration no. 1338/2008<sup>24</sup> for the approval of the Procedure for taxpayers' guidance and assistance by tax authorities.

We can not say the same about the local tax bodies, for which besides the constitutional provisions regarding *the fundamental rights, freedoms and duties of the citizens*, there are no clear legal norms that ensure not only the correct information of citizens on public affairs and problems of personal interest, but also the training of civil servants regarding the service they are obliged to perform. The solution to which individuals use - without limiting it - is the tax advice provided by some private law entities, often against money, at the risk that the opinions issued by them will not be taken into account by the tax authorities, or documents drawn up not to be capitalized.

According to the *Code of ethics of the civil servant in the tax administration, which carries out its activity in the area of taxpayers' assistance*, the transparency results from the constitutional provisions and presupposes a condition of the dialogue, respectively a tool for controlling the citizen on the activity of the executive.

Given the permanent nature of taxpayer assistance / guidance, public authorities need to pay greater attention to this by forecasting the resources needed to meet citizens' needs and expectations, so that tax authorities first carry out prevention work in the field tax and then switch to fiscal control and enforcement.

"*The complexity of social demands raises a number of problems before the public administration that need to be resolved. The society is aware of a continuous process of multiplication and diversification of the tasks of the administration, which imposes continuous improvement and improvement in the structure and activity of the administration, using modern methods and techniques*".<sup>25</sup>

At the level of the central fiscal body, the organization of the assistance / guidance activity is carried out through the General Tax Assistance Directorate, a structure within the National Agency for Fiscal Administration - the Ministry of Public Finance.

According to art. 1 of the G.D. no. 520/2013<sup>26</sup> on the organization and functioning of the National Agency for Fiscal Administration, as amended and supplemented, the agency is organized and functions as a specialized body of the central public administration, a public institution with legal personality, subordinated to the Ministry of Public Finance, financed from the state budget, according to the law.

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<sup>23</sup> Published in Official Gazette Part I No. 66 of January 27, 2004.

<sup>24</sup> Published in Official Gazette Part I No. 706 of October 17, 2008.

<sup>25</sup> E. Bălan, *Administrative institutions*, C.H. Beck, Bucharest, 2008, p. 21.

<sup>26</sup> Published in Official Gazette Part I No. 473 of July 30, 2013.

One of the important roles that this institution has is that it provides guidance to tax authorities for the uniform, fair and non-discriminatory application of tax legislation in order to apply fair treatment to all taxpayers.

In accordance with Art. 217 - (I) of the Regulation of Organization and Functioning of the National Agency for Fiscal Administration's own apparatus approved by the Order of the ANAF President no. 1566 of 18 May 2017, the subject of the General Assistance for Taxpayers' Service is to guide and assist taxpayers and guide territorial structures in the application of tax legislation, double taxation avoidance conventions and administration procedures. Among the attributions of the General Assistance Directorate for Taxpayers we note that:

- monitor and coordinate methodologically the taxpayers' assistance and assistance activity carried out by the territorial structures, while pursuing the acceleration of the process of modernizing the tax administration's relationship with the taxpayers, as well as increasing the degree of voluntary compliance of the taxpayers;

- ensures, in the specific field of activity, the elaboration of the views of the National Agency for Fiscal Administration regarding draft normative acts regulating fiscal aspects for which the Agency has the quality of approval;

- develop press releases, tax informative bulletins to inform taxpayers about legislative changes, their fiscal responsibilities, and information that can support them;

- monitors how taxpayers' requests are dealt with by taxpayers' territorial structures;

- elaborates, in cooperation with the specialized departments of the National Agency for Fiscal Administration and within the Ministry of Public Finance, informative materials for the guidance of the territorial tax authorities and the taxpayers (eg flyers, brochures, posters, guides, etc.) on general rights and obligations and / or for a certain tax;

- select the problems arising from the application of the Fiscal Code, the Fiscal Procedure Code and their subsequent legislation, received from the taxpayers and / or from the territorial fiscal bodies, develop proposals for solutions that are submitted for analysis to the specialized departments within the National Agency for Fiscal Administration, the Ministry of Public Finance or the Central Tax Commission, as the case may be;

- organizes and participates in meetings with taxpayers as well as with the personnel involved in the specific activity of territorial taxpayer assistance structures within the tax bodies subordinated to the National Agency for Fiscal Administration in order to improve the activity.

From a theoretical point of view, at the central public administration level, the taxpayer assistance / guidance activity provides assurance regarding tax predictability and compliance with taxpayer rights.

Improving public administration is possible by applying the principles of the science of science, using sociological surveys and other research methods.<sup>27</sup>

According to the Strategy of the National Agency for Fiscal Administration on medium term 2013-2017, within the scope of assistance / guidance taxpayers was established as a strategic objective the improvement of the voluntary compliance. The specific objectives and related actions set out to achieve the strategic objective were as follows:

- increasing voluntary compliance by continuing to apply the system of incentives to pay for taxpayers in difficulty generated by the temporary lack of cash availability;
- streamlining procedures and enhancing fiscal competitiveness of the business environment, encouraging taxpayers to comply;
- increasing the quality of services offered to taxpayers;
- developing the channels of computer interaction with taxpayers.

An important action to achieve the increase in the quality of services provided to taxpayers and which the National Agency for Tax Administration has undertaken was to carry out studies on the level of taxpayers' satisfaction with the assistance services.

Through the measures taken in this direction, the National Agency for Fiscal Administration registered favorable values, but as the actions are oriented towards remote services, we can only remember that they are not sustainable, taking as an example the infrastructure in Romania. At the same time, the degree of trust in the public administration is low, in this respect special attention must be paid to the training of civil servants in the field in which they operate.

Regarding the increase of the quality of the services offered to the taxpayers, which in our opinion has a significant impact on the National Agency for Tax Administration, respectively on the fiscal predictability and the observance of the taxpayers' rights, according to the activity reports published by this institution for the years 2014-2017 semester I, we note the following:

- it is mentioned that a questionnaire was published on the portal of the National Agency for Fiscal Administration to monitor the degree of taxpayers' satisfaction with the services provided, but no report was presented that would highlight the outcome of the responses;
- there are no studies on the level of taxpayers' satisfaction;
- the degree of taxpayers' satisfaction as a result of the meetings organized by the National Agency for Fiscal Administration is not presented in order to guide them on their tax rights and obligations;
- no solutions are presented for taxpayers who do not have the necessary infrastructure to access the questionnaire.

Therefore, starting from the strategic objective of the National Agency for Fiscal Administration established for the taxpayers' assistance / guidance field,

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<sup>27</sup> A. Negoită, Administration Science, E.D.P., Bucharest, 1977, p. 6.

namely the improvement of the voluntary compliance, we find that the target is to collect the revenues to the budget and not to ensure that the taxpayer has access to information, respectively claiming his rights.

Taxpayers' assistance / guidance, tax inspection and enforcement are also carried out by structures under the responsibility of the president of the National Agency for Fiscal Administration, or this can not provide sufficient trust to the taxpayer in the public administration, as evidenced by the large number of files which are currently pending before the Romanian courts in the matter of administrative litigation.

At the level of the local tax authority, the organization of the assistance / guidance activity is carried out through the specialized departments subordinated to the local public administration authorities.

In accordance with art. 120 para. (1) of the revised Romanian Constitution, the local public administration is based on the principles of decentralization, local autonomy and deconcentration of public services. According to art. 2 par. (1) of the Local Public Administration Law no. 215/2001<sup>28</sup>, republished, as subsequently amended and supplemented, the local public administration is organized and operates on the basis of the principles of decentralization, *local autonomy, deconcentration of public services*, the eligibility of local public administration authorities, legality and consultation of citizens in solving local issues of particular interest.

*Local autonomy* - according to art. 3 para. (1) of the Public Administration Law no. 215/2001, republished, with the subsequent amendments and completions - represents *the right and the effective capacity of the local public administration authorities to solve and manage, on behalf and in the interest of the local communities they represent, the public affairs, according to the law.*

The exercise of the right of local autonomy rests with the local public administration authorities, which manage the resources of the administrative-territorial unit / subdivision, so that the needs and expectations of the citizens of the local community are fulfilled.

Local taxes and fees are local budget revenues managed by local government authorities through the specialized department, called local tax bodies. Just as local taxes and duties are the tax obligations set out for taxpayers, as well as taxpayers' assistance / guidance is a service that the tax authority is obliged to offer free of charge.

In trying to identify whether taxpayers' assistance / guidance is also being processed for local tax authorities, we have noticed that there is no rule to guide local government authorities in the correct and consistent application of legal provisions and the performance of the specific tasks.

Thus, following the researches undertaken we find that according to the provisions of the Order of the Ministry of Regional Development, Public

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<sup>28</sup> Published in Official Gazette Part I No. 123 of february 20, 2007.

Administration and European Funds no. 317 of February 21, 2017 regarding the Regulation of organization and functioning, at the level of the Ministry of Regional Development, Public Administration and European Funds there is the General Directorate of Public Administration. The General Directorate is a specialized structure of the Ministry of Regional Development, Public Administration and European Funds, without legal personality, exercising at central level functions of elaboration, coordination, monitoring, analysis, synthesis and evaluation for the following fields of activity:

- strategies and reforms in public administration;
- local tax and budget policies;
- the development of community services of public utilities and industrial parks.

Among the tasks that the General Directorate of Public Administration has, we note the following:

- initiates, elaborates, analyzes, approves and promotes for approval draft normative acts for the regulation of the areas of activity managed;
- guides and supports the local public administration authorities and their specialized apparatus in the correct and unitary application of the legal provisions and the fulfillment of the attributions assigned to them by law;
- has the role of representation on the specialized fields, according to competencies;
- formulates proposals on draft normative acts drafted by ministries and other specialized bodies of the central public administration containing provisions regarding the local public administration, according to the areas of competence managed, and participates in the ministerial working groups, interministerial working groups, working groups, in order to elaborate draft normative acts aimed at the local public administration authorities, according to the managed domains;
- contributes to the development and implementation of a system of integrated monitoring and evaluation of performance in the provision of public services based on quality standards in their provision by local public administration authorities;
- develops and implements systems for assessing the administrative capacity of administrative-territorial units and provides support to strengthen their administrative capacity.

Referring to the tasks listed above, we take as an example one of the responses made by the Directorate-General for Public Administration through the Directorate for Tax Policies and Local Budgeting, posted on the personal website, namely:

*"Statement from 10.02.2017 on the calculation of the tax on non-residential buildings owned by natural persons who filed the tax return after the deadline of 31.05.2016.*

*1. According to art. 5 point 41 of the Government Decision no. 15 / 2017 on the organization and functioning of the Ministry of Regional Development, Public*

*Administration and European Funds, as subsequently amended and supplemented, it guides and supports the local public administration authorities and their specialized apparatus in the correct application and the unitary provisions of the legal provisions and the fulfillment of their attributions.*

*The Ministry of Regional Development, Public Administration and European Funds do not formulate interpretations / explanations of a general nature of administrative acts that can be invoked before any court or administrative authorities and the responsibility for issuing an act or making a decision rests solely with the authority who issues the act / person making the decision. (...)"*.<sup>29</sup>

In the first paragraph of the present case, it is emphasized the attribution according to which the Ministry of Regional Development, Public Administration and European Funds through the General Directorate of Public Administration "guides and supports the local public administration authorities and their specialty apparatus in the correct and unitary application of the legal provisions and the fulfillment their duties", and from the second paragraph, " ..... does not formulate interpretations / explanations of a general nature of administrative acts that can be invoked before any court or administrative authorities ... ", it follows that it does not assume the viewpoints it formulates. In such situations, do the local public authorities consider that the point of view developed by the Ministry of Regional Development, Public Administration and European Funds is informative? It is obvious that such an attitude can not ensure the guidance of the local tax bodies in the correct and unitary application of the legal provisions and the fulfillment of their attributions.

## Conclusions

We can appreciate that the first purpose of administrative law in Romania is not achieved in such a way that the result obtained from the administration's control by law is favorable both in quantitative and qualitative terms.

At the level of the central administration, the taxpayers' assistance/guidance activity carried out by the central fiscal bodies it is realizing in a centralized / deconcentrated system, according to the provisions of Order no. 1338/2008 issued by the President of the National Agency for Fiscal Administration for approving the procedure for taxpayers' guidance and assistance by tax authorities.

Regarding the local public administration, the taxpayer assistance/guidance activity is carried out, in a decentralized system, at the level of each administrative - territorial unit/subdivisions through specialty compartments "at will", without a procedure - regulated at national level - which to guide the local tax authorities in the correct and unitary application of the legal provisions and the fulfillment of the specific tasks of assistance / guidance to taxpayers.

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<sup>29</sup> [http://www.dpfbf.mdrap.ro/spete\\_fiscale\\_cladiri.html](http://www.dpfbf.mdrap.ro/spete_fiscale_cladiri.html) (accessed on november 13, 2017).

However, irrespective of the solutions found to resolve the situations described above, the primary objective for central and local tax authorities remains to collect revenue to the general consolidated budget. Also, it should not be forgotten that in the financial law legal relationship, the taxpayer is subjectively passive<sup>30</sup>, a situation that strengthens the above-mentioned appreciation.

We believe that the alternative that can increase taxpayers' welfare, strengthen the rule of law, achieve credible, efficient and quality public administration is free tax counseling through tax prevention actions. Involvement of public authorities with fiscal preventative activity, in addition to helping taxpayers to track and understand their tax burden, to be able to determine the influence of their financial management decisions on taxes and duties, as well as claiming their rights, would also contribute to increasing voluntary compliance taxes.

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<sup>30</sup> E. Bălan, Financial right, edition 4, C.H. Beck, Bucharest, 2007, p. 39.

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### 3. Website:

- [http://www.dpfbf.mdrap.ro/spete\\_fiscale\\_cladiri.html](http://www.dpfbf.mdrap.ro/spete_fiscale_cladiri.html) (accessed on november 13, 2017).