

**LAW No. 87 of 18 October 1994
on combatting fiscal evasion
(L87/1994)**

ISSUED BY: THE PARLIAMENT
PUBLISHED IN: ROMANIAN OFFICIAL JOURNAL No. 299 of 24 October 1994

The Parliament of Romania has adopted this law.

**CHAPTER 1
General provisions**

Article 1

“Fiscal evasion” means avoiding by any means, entirely or partially, the payment of taxes, fees and other charges owed to the state budget, local budgets, social state insurance budget and special extra-budgetary funds by Romanian or foreign natural and legal persons, hereinafter called taxpayers.

Article 2

The carrying out of permanent or temporary activities, generating taxable incomes, can take place only on the basis of an authorisation issued by the competent authority or based on another ground provided by law.

Article 3

Taxpayers have the obligation, in 5 days from registration, to declare to the fiscal authority on whose territorial area they have their headquarters, the data about the sub-units constituted in branches, subsidiaries, points of work, warehouses, stores and any other places where income generating activities are carried out, the name of the banks, as well as ROL and foreign currency bank accounts, regardless of the place where they operate, in-country or abroad.

Moreover, taxpayers have the obligation to declare to the control body the taxable assets and values deposited in other places than the ones provided under paragraph 1.

The declaration of the offices of the sub-units provided under paragraph 1, inside the country, is also made at the territorial tax authority where they operate.

Any change intervened related to the data stipulated in this Article shall be communicated to the competent fiscal authorities, within 15 days from the date of its occurrence.

At the request of the control bodies, the banks have the obligation to communicate the existence of the accounts opened by the taxpayers.

Article 4

Taxpayers have the obligation to evidence the incomes obtained and the expenses incurred from the activities carried out, by drawing up registers or any other documents provided by the law.

Article 5

Taxpayers have the obligation to honestly declare incomes obtained, the tangible and intangible assets in their property or obtained by any legal title, as well as any other values that generate titles of fiscal debt.

If the law does not provide the obligation to submit the tax declaration forms, taxpayers are responsible for the right calculation of the taxes and charges that they have to transfer to the budget, under the conditions provided by law.

Article 6

Natural and legal persons that realise incomes or hold intangible or fixed assets or carry out economic activities subjected to taxes and fees, have the obligation to pay the sums owed to the state in due course.

Article 7

Non-observance of fiscal regulations as regards customs duties, by inaccurate declaration, in any way, of values or by withdrawing goods from customs duties charge, with the purpose of not paying the customs duties or of diminishing the above or other fiscal obligations, is punished according to the law.

Article 8

The financial and fiscal bodies of the Ministry of Finance and the subordinated territorial units, the Anti-fraud Squad and other persons empowered by the law have the right to verify the taxpayers as to their compliance with the legal regulations concerning the organisation and unfolding of the economic activities which generate taxable incomes or goods liable to taxes and fees.

The taxpayers must allow the carrying out of the check and must lay at the disposal of the control bodies all the accounting documents, bookkeeping records and any other material or value items requested, with a view to knowing the reality of the objects or of the taxable or chargeable sources.

CHAPTER 2 Offences and punishments

Article 9

Refusal to present to the control bodies provided by law the supporting documents and the accounting records necessary to establish the obligations to the state is punished with imprisonment from 3 months to 2 years or with a fine between ROL 200,000 and 1,000,000.

Article 10

Drawing up incomplete or inadequate primary or bookkeeping documents or accepting such documents with the purpose of preventing financial-accounting checks to identify the fiscal evasion cases, is punished with imprisonment from 6 months to 5 years and prohibition of certain rights or with a fine from ROL 1 000 000 to 10 000 000.

Article 11

Avoidance to pay the taxes, fees and contributions owed to the state by not recording some activities, for which the law provides the obligation to record, with a view to obtaining revenues, is punished with imprisonment between 2 and 8 years and the prohibition of certain rights.

Article 12

Avoidance to pay the fiscal obligations entirely or partially by not declaring the taxable incomes or performing any other operations with this purpose is punished with imprisonment between 2 and 7 years and the prohibition of certain rights.

Article 13

The deed of not showing in the accounting documents or in any other legal documents, entirely or partially, the incomes obtained or of recording expenses that are not based on real operations, if such expenses have resulted in the reduction or the failure to pay the tax, fee or contribution, is punished with imprisonment from 6 months to 5 years and the prohibition of some rights or with a fine from ROL 1,000,000 to 10,000,000.

Article 14

Organising or conducting double bookkeeping records, by the manager of the unit or other persons charged with financial-accounting tasks, or altering the memory of the charging machines, marking machines, or of other means of data storing, with the purpose of diminishing the taxable incomes, fees and contributions, is punished with imprisonment from 2 to 7 years and the prohibition of some rights.

Destroying the accounting documents or other documents or the memory of the charging machines or marking machines or other data storage means, with the purpose showed in paragraph 1 is sanctioned with the punishment provided in the respective paragraph.

Article 15

The attempt to the violations stipulated in Articles 12 and 14 is punished.

Article 16

The fictitious statement made by the taxpayers or their proxies regarding the registered office of a company or changing it without fulfilling the obligations provided by the law, with the purpose of withdrawing from fiscal control, is punished with imprisonment from 2 to 7 years and prohibition of certain rights.

CHAPTER 3
Violations and sanctions

Article 17

The following deeds are considered violations, if they are not committed in such conditions that, according to the criminal law, are supposed to be offences:

- a. the taxpayers' failure to declare, within the provided period of time, the incomes and goods subject to taxes, fees and contributions;

- b. failure to draw up, within the provided period of time and according to the legal provisions, the primary and accounting documents concerning the incomes obtained by the taxpayers;
- c. the wrong calculation of incomes, fees and contributions, having as a result the diminishing of the fiscal debt value due to the state;
- d. failure to produce, at the request of control bodies, the supporting and bookkeeping documents regarding the way the fiscal obligations were carried out;
- e. the refusal to present to the financial-fiscal body the material goods subject to taxes and duties with a view to establishing the truthfulness of the tax declaration and its actual registration;
- f. failure to withhold or transfer, according to the law and within the provided period of time, the taxes, fees and contributions realized by their retaining at the source, by taxpayers who have these obligations;
- g. failure to submit papers, situations and any other data connected to the activity carried out by the units and sub-units which the taxpayers are responsible for, requested by the fiscal- financial bodies with a view to knowing the financial - bookkeeping reality in that unit or sub-unit, as well as to use the documents with special regime, in other situations than those provided by law;
- h. failure to fulfil, in due time, the dispositions given by the control document concluded by the financial and fiscal bodies;
- i. failure to fulfil the obligations stipulated in Article 3 of this law;
- j. failure to honour, without justification, by the banks or financial institutions with which the taxpayers have opened accounts, the fiscal debt titles issued by the authorised bodies, with a view to taking legal proceedings to withhold taxes, fees and contributions that had not been paid in due time, including also the increases caused by delay;
- k. withdrawal from paying taxes, fees and contributions due to the state for the incomes obtained by carrying out unauthorised activities.

The violations provided for in this Article are sanctioned as follows:

- 1. those from (a), (b), and (k), with fine from ROL 100,000 to 300,000 for natural persons and from ROL 100,000 to 200,000,000 for legal persons;
- 2. those from (c) and (h), with fine from ROL 100,000 to 300,000 for natural persons and for legal person with fine from ROL 300,000 to 2,000,000 in the case of deeds under (c), from ROL 600,000 to 2,000,000 in the case of deeds under (h);
- 3. those from (d), (e) and (i) with fine from ROL 100,000 to 300,000 for natural persons and from ROL 200 000 to 1,000,000 for legal persons;

4. those from (f) and (j) with a fine from ROL 100,000 to 500,000 for natural persons and between ROL 300,000 and 3,000,000 for legal persons;
5. the deed under point (g) with a fine from ROL 100,000 to 300,000 for natural persons and from ROL 600,000 to 2,000,000 for legal entities.

Article 18

In cases where taxes, fees and contributions owed to the state were diminished, by the violation of fiscal provisions, the offender shall pay beside the unpaid taxes, fees and contributions, a sum equal to the differences of taxes, fees and contributions established by the control body.

If the control body ascertains that the taxpayer committed a new trespassing within a year, it shall dispose the payment, besides the differences in taxes, fees and contributions established according to the law, of a sum equal to the double of the ascertained differences.

Article 19

When, as a result of committing an offence or a trespassing, the taxes, fees and contributions owed cannot be established on the basis of the taxpayers' bookkeeping records, they shall be determined by the control body by estimation, using for this purpose any documents and information concerning the activity carried out within that period of time, including the comparison of this activity to similar activities and cases.

Article 20

The financial and fiscal control bodies within the Ministry of Finance do the ascertaining of violations and applying the sanctions and the subordinated territorial units, the Anti-fraud Squad and other bodies empowered by law.

Article 21

A copy of the report shall be sent to the offender by the control body which applied the sanction, within no more than 15 days from the date of its drawing up.

The complaint about the report is solved by the court of law on whose jurisdiction the violation was committed.

Article 22

The provisions of the present law are complementary to the provisions of Law No. 32/1968 on the establishment and punishments of the infringements, except for Articles 25-27.

Chapter 4 Final Provisions

Article 23

The present law comes into force within 30 days from its publication in the Romanian Official Journal.

Article 24

Any other provisions contrary to the present law are abrogated

The Chamber of Deputies has adopted this law in the session of 4 October 1994, with observance of the provisions of Article 74 (1) from the Constitution of Romania.

p.p. PRESIDENT OF THE CHAMBER OF DEPUTIES
IOAN GAVRA

The Senate has adopted this law in the session of 4 October 1994, with observance of the provisions of Article 74 (1) from the Constitution of Romania.

PRESIDENT OF THE SENATE
Professor OLIVIU GHERMAN