

CURRENT DIMENSIONS OF ROMANIAN COMPANIES WITH SHAREHOLDERS FROM TAX HAVENS

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Abstract: *Offshore jurisdictions have attracted increasing attention in recent years, both in Romania and in the world. The concerns of non-tax haven countries are (or should be) not to lose their budget revenues. Usually, the impact of the offshore jurisdictions on national economies is analysed through the inflows and outflows of foreign direct investments. Given the lack of relevant information regarding offshore jurisdictions, statistics on direct investments are among the few data available. This paper is an exploratory study that aims to analyse the evolution of the number of companies with investors in tax havens and the size of the share capital held by them in the period 2001-2019. In this regard, we used annual statistics on Romanian companies with foreign investors. The results show that out of all companies with foreign investors, on average, approximately 11.1% have shareholders from tax havens. On the other hand, they hold on average about 37% of the share capital of all companies with foreign shareholders.*

Keywords: *tax avoidance, tax optimization, tax havens, foreign direct investments, transfer pricing*

1. INTRODUCTION

Tax havens, offshore financial centers or secret jurisdictions are concepts that inevitably attract the attention of researchers, journalists, the general public, but especially the tax authorities and governments of many countries. In general, tax havens are those countries or territories that offer favorable tax regimes for foreign investors, such as low or zero corporate tax rates and low or zero withholding tax rates (Dharmapala, 2008). On the other hand, offshore financial centers are considered jurisdictions that “provide financial services to nonresidents on a scale that is incommensurate with the size and the financing of its domestic economy” (Zoromé, 2007). Secrecy Jurisdiction is a term preferred by the Tax Justice Network (2020a) to refer both to tax havens and offshore financial centers. While admitting that no definition can capture all aspects that characterize this type of countries or territories, Tax Justice Network provides a working definition for the concept of secrecy jurisdiction. Thus, in the vision of the Tax Justice Network (2020a), “a secrecy jurisdiction provides facilities that enable people or entities escape or undermine the laws, rules and regulations of other jurisdictions elsewhere, using secrecy as a prime tool”. In this paper, to refer to tax havens we will also use the term “offshore jurisdictions”.

The influence of tax havens on the world economy refers to the fact that it accelerates tax competition between countries, and some governments may be forced to reduce their tax rates, in some cases even to zero types of income. Normally, without international tax

competition to attract mobile capital, countries would not have reduced their tax rates (Desai et al., 2006). According to the KPMG Corporate Tax Rates Table (KPMG, 2020), there are currently ten tax jurisdictions that have a zero corporate tax rate, namely: Anguilla, Bahamas, Bahrain, Bermuda, Cayman Islands, Guernsey, Isle of Man, Jersey, Turks and Caicos Islands and Vanuatu. However, there are also countries that apply low tax rates that tend to zero, in terms of special regimes. An example in this regard is Panama; where for special regimes may apply from zero to 5% tax rate (KPMG, 2020). A series of papers have focused on the analysis of the use of tax havens by multinational companies in developing tax optimization strategies (Dyreg & Lindsey, 2009; Gumpert et al., 2016; Schwarz, 2009; Dowd et al., 2017). The shifting of taxable profit to offshore jurisdictions is usually done through transfer pricing and the strategic use of debt among affiliates (Dharmapala, 2008; Davies et al., 2018; Schwarz, 2009). The results of a relatively recent study (Taylor et al., 2015) show that the use of tax havens, intangible assets and multinationality have a statistically significant positive association with the aggressiveness of transfer pricing. However, companies that register offshore companies in tax havens not only want to benefit from very low tax rates, but they also seek secrecy (Braun & Weichenrieder, 2015).

The fact that offshore jurisdictions help companies to export their taxable profits from other places creates problems for countries where revenues have been earned. Janský & Palanský (2019) consider that tax avoidance by shifting profits to tax havens is a crucial issue for the world economy. According to some studies, non-tax haven countries lose very high tax revenues (Cobham & Janský, 2018; Tørsløv et al., 2018; Bolwijn et al., 2018). For example, according to the structure of budgetary revenues in Romania for 2018 (Romanian Ministry of Public Finances, 2019), the budget revenues from the corporate tax were only 5.3%. The largest share of budget revenues has social insurance contributions (33.2%), followed by value added tax (20.2%) and excise duties (9.7%), non-fiscal revenues (9.2%), amounts received from the EU and donations (9.2%), wage and income tax (7.7%) and other income (5.5%). According to a study that analyzed Romanian companies with connections to tax havens (Afrasinei, Georgescu & Istrate, 2016), there are indications that part of the taxable profit could be shifted to these jurisdictions. According to a study that analyzed Romanian companies with connections to tax havens (Afrasinei et al., 2016), there are indications that part of the taxable profit could be directed to these jurisdictions.

Although the subject of offshore finance has attracted more and more attention in recent years in Romania, the available information regarding the connections of companies in tax havens is extremely limited. The only available public data are the monthly statistics published by the National Trade Register Office, which include the number of companies with foreign investors and the size of the share capital held by them, respectively the statistics published by the National Bank of Romania on the inflows of foreign direct investments. We have not yet identified available public data regarding the countries of direct investment outflows from Romania, so in this study we will analyze only the inflows. Instead, Romania has drawn the attention of the experts from Tax Justice Network in terms of financial secrecy. Tax Justice Network (2020b) began in 2009 to develop a financial secrecy index every two years that “ranks jurisdictions according to their secrecy and the scale of their offshore financial activities”. In 2018, Romania was included on this list for

the first time (47th place), mainly because at that time companies with bearer shares could still be set up. In the last financial secrecy index, after the ban on bearer shares, Romania was ranked 56th.

Considering the small number of studies that analyze the relationship between offshore jurisdictions and Romanian companies, we aim to contribute to the literature with new data. The purpose of this exploratory study is to analyze the evolution of the number of Romanian companies with investors from tax havens and the size of the share capital held by them in the period 2001-2019. This paper is a continuation and development of a previous study that analyzed the situation until 2015 (Afrasinei, 2016). Given the recent interest in Romania in terms of tax havens, recommendations from readers, professionals in academia and experts, we considered it appropriate to continue and develop this study.

2. ANALYSIS OF ROMANIAN COMPANIES WITH FOREIGN INVESTORS

In this section of the paper, we will analyze the involvement of tax havens in the Romanian economy based on statistics published by the National Trade Register Office (2020) on companies with foreign participation in share capital. Starting with 2001, the National Trade Register Office publishes every month a report on the situation of Romanian companies with foreign investors (both individuals and legal entities), which contains, among other information, a ranking by country of residence of the shareholders. The ranking usually includes the top 50 countries depending on the size of the share capital held. However, in each annual ranking there are also countries that have a cumulative value of investments below 0.1% (even up to 0.03%) of the total foreign investments, which makes our analysis relevant. In addition, almost every year, investors "without citizenship" appear in reports and we could not classify if they are part of the group of tax haven or non-tax haven jurisdictions (but they are insignificant).

In our study, we will use data from the reports published for December of each year, which includes statistics for the whole year. The analyzed period includes 19 years, starting from 2001 to 2019. We will analyze by comparison the evolution of companies with investors from tax havens and companies with foreign investors from other countries that are not tax havens. The list of tax havens that we will use in this paper is the same that was used in the studies made by ActionAid (2011) and Afrasinei et. al (2016).

In the first stage of the study, we will analyze the evolution of the number of companies with foreign investors, as well as of the share capital held by them in the period 2001-2019. Through table no.1, we systematized the evolution of the number of companies with shareholders from tax havens, by comparison with the evolution of the number of companies with shareholders from non-tax haven jurisdictions. Thus, it is observed that in 2019 the number of companies with foreign investors from non-tax havens increased by 185% compared to 2001, and the number of companies with shareholders from tax havens increased by 174%. The number of both categories of companies increased approximately to the same extent during the analyzed period.

In the evolution of the number of companies with investors from non-tax haven jurisdictions, there are bigger differences (compared to the previous year) in 2002, 2004, 2006 and 2007, when the increase compared to the previous year was more than 10%. The

only decrease in the number of companies with foreign shareholders from non-tax haven jurisdictions is registered in 2019, but it is insignificant.

In the evolution of the number of companies with investors from tax havens there are significant increases (compared to the previous year) in 2002, 2006, 2007 and 2019. The large increase in the number of companies with foreign investors (both from tax havens and from other countries) from 2006-2008 could be attributed to Romania's accession to the European Union starting with January 1, 2007. In 2014, there is a significant decrease in the number of companies with investors from offshore jurisdictions (-11.66%) that could be attributed to the appearance in 2013 of the Offshore Leaks scandals. Also, the Panama Papers scandal broke out in 2016, which could have had an impact on slowing the growth of the number of companies with investors from tax havens or even the decrease of this number in 2016 (-1.63%). In addition, order 442/2016 was issued at the beginning of January 2020, which stipulates the obligation to prepare a file of transfer prices in the case of large companies that carry out transactions with affiliates that exceed a certain value. The largest increase in the number of companies with shareholders in offshore jurisdictions is observed in 2019, when there was an increase of 20.51% (from 21,131 companies to 25,465 companies).

Table 1. Evolution of the number of Romanian companies with investors from tax haven and non-tax haven jurisdictions in the period 2001-2019

Year	Non-Tax Haven Jurisdictions			Tax Haven Jurisdictions		
	No of companies	Share in total (%)	Differences (%)	No of companies	Share in total (%)	Differences (%)
2001	69.976	84,91	-	9.293	11,29	-
2002	79.614	88,51	13,77	10.934	12,16	17,66
2003	85.680	88,16	7,62	11.469	11,81	4,89
2004	95.008	88,46	10,89	12.374	11,51	7,89
2005	98.423	82,60	3,59	12.761	10,71	3,13
2006	110.108	83,43	11,87	14.487	10,98	13,53
2007	124.260	84,19	12,85	16.867	11,42	16,43
2008	135.085	84,46	8,71	18.350	11,48	8,79
2009	140.292	84,15	3,85	18.988	11,39	3,48
2010	148.820	86,01	6,08	19.914	11,51	4,88
2011	155.059	88,18	4,19	20.852	11,85	4,71
2012	159.970	87,97	3,17	21.843	11,99	4,75
2013	167.674	88,12	4,82	22.576	11,87	3,36
2014	174.746	89,74	4,22	19.944	10,23	-11,66
2015	181.300	89,87	3,75	20.483	10,15	2,70
2016	187.795	90,31	3,58	20.150	9,68	-1,63
2017	194.333	90,43	3,48	20.619	9,59	2,33
2018	200.484	90,46	3,17	21.131	9,52	2,48
2019	199.174	88,67	-0,65	25.465	11,33	20,51

Mean	87,30	11,08
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Source: own processing according to data provided by the National Trade Register Office in Romania

Next, we will analyze the change in the size of the share capital of companies with foreign investors in the period 2001-2019. Table 2 shows the evolution of the size of the share capital by comparison between companies with shareholders in tax havens and companies with shareholders in non-tax haven jurisdictions.

In the case of companies with shareholders from non-tax haven countries, there is an increase of the share capital held from year to year. In 2019, the size of the share capital held by investors became 639% higher than in 2001. The highest increase compared to the previous year was registered in 2004 (by 38%). This was followed by a period of higher growth than in other years until 2009. This could be explained by Romania's accession to the European Union in 2007.

On the other hand, the share capital of companies with investors from tax havens is 760% higher in 2019 than in 2001. The highest increase is found in 2008 (31.98%), followed immediately by a slight decrease in the following year which can be considered more of a stagnation (less than 1%). Also, in 2011 there was a significant increase compared to the previous year (by 28.22%). In 2019, contrary to the largest increase in the number of companies with investors from tax havens in the analyzed period, the size of the share capital held by these shareholders decreased by 5.95%.

Table 2. The size of the share capital of Romanian companies owned by investors from tax haven and non-tax haven jurisdictions in the period 2001-2019

Year	Non Tax Haven Jurisdictions			Tax Haven Jurisdictions		
	Capital (thousand USD)	Share in total (%)	Differences (%)	Capital (thousand USD)	Share in total (%)	Differences (%)
2001	5.064.753	64,58	-	2.776.938	35,40	-
2002	5.657.582	63,30	11,705	3.229.301	36,13	16,29
2003	6.451.534	62,26	14,03341	3.825.702	36,89	18,47
2004	8.882.291	65,45	37,6772	4.591.701	33,83	20,02
2005	11.145.012	66,63	25,47451	5.524.223	33,02	20,31
2006	12.740.263	64,14	14,31359	6.985.877	35,17	26,46
2007	15.142.386	65,33	18,85458	7.886.203	35,06	12,89
2008	18.525.976	63,65	22,34516	10.408.467	35,77	31,98
2009	23.386.964	68,95	26,23876	10.336.294	30,46	-0,69
2010	25.983.241	66,52	11,10139	12.915.171	33,06	24,95
2011	26.982.275	61,95	3,844916	16.559.839	38,03	28,22
2012	28.886.317	61,24	7,05664	18.300.830	38,78	10,51
2013	30.799.557	61,25	6,623345	19.482.704	38,74	6,46
2014	32.975.739	61,11	7,065626	20.968.699	38,88	7,63
2015	33.378.210	60,34	1,220508	21.962.713	39,69	4,74
2016	35.375.692	61,26	5,984388	22.337.618	38,70	1,71
2017	35.753.111	59,98	1,066887	23.842.249	40,02	6,74
2018	36.261.144	58,84	1,420949	25.385.861	41,17	6,47
2019	37.410.847	61,03	3,170618	23.876.422	38,96	-5,95

Mean	63,04	36,72
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Source: own processing according to data provided by the National Trade Register Office in Romania

For a deeper analysis of the current situation, we divided the size of the share capital by the number of companies, so that we calculated the average value of the share capital per company according to the country of origin of foreign investors. Through table no. 3 we highlighted the results obtained. As can be seen, the data show that the value of share capital per company is much higher for investors from tax havens. Practically, every year of the entire analyzed period, the value is higher by over 300% in the case of companies with shareholders from offshore jurisdictions than in the case of companies with foreign shareholders from other countries. The smallest difference is registered in 2009 (326.55%), and the biggest difference is in 2018 (664.22%). The lowest value of the share capital per company is in 2002 (295 thousand US Dollars), and the highest in 2018 (1,201 thousand US Dollars). If in 2001, the average value of the share capital held by shareholders from tax havens was 299 thousand US Dollars; in 2019, it increased by 214%, and in the case of shareholders from non-tax haven jurisdictions increased by 161%. These data may suggest that shareholders from tax havens invest in larger firms than the shareholders from other countries or that they seek to hold a larger proportion of the share capital in order to exert significant influence in those firms. The size of shareholders from tax havens investments tends to be much larger than those in other countries. This situation may also indicate that they have the opportunity to more easily extract or shift the profit obtained within these companies through financial vehicles. In addition, high values of share capital in the companies may indicate that there is a round tripping of capital. The problem of round tripping of capital is important both for policy makers in the countries where this practice occurs, but also for international organizations (Xiao, 2004). Evidence from studies has identified that some of the capital leaving the country tends to stay abroad and wait for opportunities to return (Xiao, 2004).

Table 3. The size of the share capital per company held by foreign investors in Romanian companies in the period 2001-2019

Year	Non tax haven jurisdictions (thousand USD)	Tax haven jurisdictions (thousand USD)	Differences (%)
2001	72	299	412,86
2002	71	295	415,61
2003	75	334	443,00
2004	93	371	396,92
2005	113	433	382,30
2006	116	482	416,76
2007	122	468	383,68
2008	137	567	413,60
2009	167	544	326,55
2010	175	649	371,46
2011	174	794	456,38
2012	181	838	463,99
2013	184	863	469,81

2014	189	1.051	557,15
2015	184	1.072	582,41
2016	188	1.109	588,49
2017	184	1.156	628,51
2018	181	1.201	664,22
2019	188	938	499,18

Source: own processing according to data provided by the National Trade Register Office in Romania

For a more in-depth analysis, we have systematized in table 4 the top of the jurisdictions with the largest size of the share capital per company. We can notice that out of the first ten territories in the top, eight are tax havens.

The highest value is registered in 2001, when the shareholders from the Netherlands Antilles had a contribution to the share capital of 97,064 thousand US Dollars per company. In fact, the Netherlands Antilles is on the first place in this top every year, but in table 4 we took into account only the year in which the value is the highest for each country. In 2001, there were only 5 companies with investors from the Netherlands Antilles, and in 2018 their number reached 17. Bermuda is the second jurisdiction by the size of share capital per company. In 2019, there were 17 companies with investors from Bermuda, and they had a share capital per company of 9,647 thousand US Dollars. One of the reasons why such a high value was registered in the early 2000s could be the fact that the Romanian legislation was much more permissive than at present in terms of tax optimization strategies developed by companies. Thus, the export of profit to other countries to avoid taxation was much easier at that time. However, the fact that there is a high value of this index in 2019 underlines the fact that tax havens are still an important player in directing foreign direct investment. The third jurisdiction in the top by the size of the share capital per company is the Marshall Islands. The shareholders of this country invested in 2005 in 28 companies, but the value of the share capital per company was 6,439 thousand US Dollars. Tax havens such as Panama, the Netherlands, Luxembourg, Belize and the British Virgin Islands are countries of residence for shareholders who also hold a significant amount of share capital per company.

Table 4. Top 10 jurisdictions by the size of share capital per company in the period 2001-2019

No.	Year	Country	Index
1	2001	Netherlands Antilles*	97.063,9
2	2019	Bermuda*	9.647,38
3	2005	Marshall Islands*	6.438,94
4	2011	Panama*	6.388,45
5	2001	South Korea	3.467,96
6	2018	Netherlands*	2.514,89
7	2019	Luxembourg*	2.456,92
8	2012	Belize*	2.341,42
9	2008	British Virgin Islands*	2.295,17
10	2004	Iceland	1.849,11

*Note: *tax haven jurisdictions*

Source: own processing according to data provided by the National Trade Register Office in Romania

The tax havens that appeared in the reports published by the National Trade Register Office in the period 2001-2019 are presented in table no. 5 depending on the frequency of occurrence. In total, in the analyzed period there are 23 tax havens where foreign investors are residents. Seven of these appear regularly in all nineteen years analyzed (Cyprus, Switzerland, British Virgin Islands, Lebanon, Liechtenstein, Luxembourg, and the Netherlands). Jurisdictions such as the Netherlands Antilles, Gibraltar, the Marshall Islands and Panama appear in eighteen years. In some cases, Romanian investors prefer to invest through an offshore company registered in a tax haven for tax reasons. In the same table are also highlighted the non-tax haven countries where foreign investors are residents, which appear in the top every year.

Table 5. Countries of residence of foreign investors according to the frequency of appearance in the reports published by the National Trade Register Office

No.	Tax haven jurisdictions	No. of Years	Non-tax haven jurisdictions	No. of Years
1	British Virgin Islands	19	Austria	19
2	Cyprus	19	Belgium	19
3	Lebanon	19	Canada	19
4	Liechtenstein	19	China	19
5	Luxembourg	19	Denmark	19
6	Netherlands	19	Egypt	19
7	Switzerland	19	France	19
8	Netherlands Antilles	18	Germany	19
9	Gibraltar	18	Greece	19
10	Marshall Islands	18	Hungary	19
11	Panama	18	Iraq	19
12	Ireland	16	Italy	19
13	Jordan	14	Japan	19
14	Belize	13	Poland	19
15	American Virgin Islands	12	Republic of Moldova	19
16	Malta	11	South Korea	19
17	Bermuda	10	Spain	19
18	Singapore	8	Syria	19
19	Seychelles	6	Sweden	19
20	Monaco	3	Turkey	19
21	Bahamas	2	United Kingdom	19
22	Cayman Islands	2	United States	19
23	Liberia	2		

Source: own processing according to data provided by the National Trade Register Office in Romania

For a deeper analysis of the tax havens in which the investors of Romanian companies are residents, we highlighted through table no.6 for each country the number of companies and the value of share capital both for the first year in which they appeared in reports, and also for the last year (in order to observe the trends).

Table 6. Countries of residence of the offshore investors according to the first and last year of occurrence in the reports published by the National Trade Register Office

No.	Tax havens	First year	No. of companies	Capital (thousand USD)	Last year	No. of companies	Capital (thousand USD)
1	Netherlands	2001	1.332	1.122.153	2019	5.414	12.603.135
2	Cyprus	2001	755	535.005	2019	6.144	6.010.107
3	Luxembourg	2001	156	169.409	2019	1.029	2.528.172
4	Switzerland	2001	1.002	200.094	2019	3.106	1.672.960
5	Netherlands Antilles	2001	5	485.320	2018	15	723.040
6	British Virgin Islands	2001	108	82.616	2019	393	379.720
7	Bermuda Islands	2005	4	10.545	2019	17	164.006
8	Lebanon	2001	2.817	37.535	2019	4.245	161.819
9	Gibraltar	2001	14	11.139	2018	72	85.389
10	Malta	2009	78	15.152	2019	194	58.621
11	Panama	2001	102	15.757	2018	245	55.826
12	Seychelles	2014	47	58.756	2019	52	55.160
13	Belize	2005	15	11.783	2019	45	54.442
14	Singapore	2009	51	45.718	2016	71	54.185
15	Marshall Islands	2002	6	13.545	2019	33	53.678
16	Liechtenstein	2001	134	39.125	2019	224	38.528
17	American Virgin Islands	2001	29	6.225	2019	187	36.237
18	Ireland	2001	118	26.798	2019	943	33.399
19	Jordan	2001	2.662	11.945	2019	3.439	26.442
20	Monaco	2001	14	17.108	2003	28	15.475
21	Cayman Islands	2001	5	6.462	2002	7	6.347
22	Liberia	2001	25	5.383	2002	34	5.156
23	Bahamas	2001	15	4.865	2002	24	4.968

Source: own processing according to data provided by the National Trade Register Office in Romania

In terms of the number of companies, Table 6 shows that the largest increases were in the case of shareholders resident in Cyprus, Ireland and Luxembourg. If in 2001 there were 755 companies with shareholders from Cyprus, in 2019 their number reached 6,144 (more than 814%). In addition, in 2001 there were only 118 companies with shareholders resident in Ireland, and in 2019 their number is 799% higher (943 companies). In 2001, there were 156 companies with shareholders in Luxembourg, and in 2019, there are 1,029 companies (their number increased by 660%). The situation is in line with the magnitude of foreign direct investment flows globally. In recent years, the Netherlands and Luxembourg are in the top 3 countries both in terms of inflows and outflows of foreign direct investments (Afrasinei, 2019). Regarding the size of the share capital, the highest increase was registered in the case of companies with shareholders from Bermuda (1,555%), Luxembourg (1,492%), Cyprus (1,123%) and the Netherlands (1,123%). However, the share capital held by investors from Bermuda is insignificant compared to

those from other countries, and this extremely large increase is due to the increase in the number of companies from 4 in 2005 to 17 in 2019.

3. CONCLUSIONS

This paper analyzed the evolution of the number of Romanian companies with foreign shareholders in tax havens, as well as the size of the share capital held by them in the period 2001-2019. To achieve this, we used the annual statistics provided by the National Trade Register Office.

The results of the study showed that the number of Romanian companies with shareholders resident in tax havens has evolved approximately the same as the number of companies with foreign shareholders from non-tax haven countries. If in 2001 (the first year) 11.29% of companies had investors from tax havens, in 2019 the share is 11.33%. However, Romanian companies with shareholders from offshore jurisdictions hold 36.72% of the share capital of all companies with foreign investors. In other words, 11.33% of the companies hold 36.72% of the share capital. These values may suggest that shareholders resident in tax havens tend to invest in larger companies or that they intend to have significant influence. In addition, this situation may suggest that investors in tax havens have the opportunity to more easily extract or shift the profit obtained within these companies through financial vehicles.

Through this exploratory study, we identified the fact that investors from tax havens are resident in 23 countries or territories. The offshore jurisdictions that appear regularly each year in the reports of the National Trade Register Office are the British Virgin Islands, Cyprus, Lebanon, Liechtenstein, Luxembourg, the Netherlands and Switzerland. The Netherlands Antilles, Gibraltar, the Marshall Islands and Panama are found in 18 of the 19 reports. These would be the jurisdictions with the greatest impact on the Romanian economy. Finally yet importantly, we have identified the fact that the size of the share capital per company is much higher in the case of companies with investors from tax havens, which may indicate the fact that round tripping of capital is practiced.

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