

## **A GENERAL FRAMEWORK FOR ANALYSING THE TAXATION SYSTEM USED FOR INCOMES OBTAINED BY NON-RESIDENTS IN ROMANIA**

**Dacian DUDAȘ Ph. D Student**  
**University of the West**  
**Faculty of Economics and Business Administration**  
**Timișoara, Romania**  
**Prof. Marius Horea HERBEI Ph. D**  
**University of the West**  
**Faculty of Economics and Business Administration**  
**Timișoara, Romania**

**Abstract:** The study of income taxation earned by non-resident people of Romania requires the investigation of the general approach. In this respect, in the report are presented and analyzed the number and structure of non-resident individuals, legal entity, and the taxes owed by these. There is the tendency to increase tax revenue from legal entities non-residents, this trend increases in the 2008-2010, due to the economic crises. The appearance of economic crises didn't „amputate” the receipts of paid taxes by the non-resident legal entities, in contrast the individuals weren't so fortunate, because of „greater rigidity” in the elasticity of business numbers, these adjusting themselves on medium and long term.

**JEL classification: H21,H30**

**Key words: non-resident; taxes; taxable matter; legal entities; permanent residence.**

### **1. INTRODUCTION**

After the events in December 1989, the fiscal legislation in Romania has been completed and adapted to unilateral practices and measures, in order to avoid the double taxation used at international level, by means of introducing or re-phrasing certain terms and definitions, as: residence, permanent residence/office, nationality or foreign fiscal credit.

According to art. 113, in the Law nr. 571 from 2003 regarding the Fiscal Code, with subsequent alterations and additions, the non-residents who make taxable incomes in Romania have to pay taxes and are referred to as tax payers in the following material.

A non-resident is defined as any foreign legal person, any non-resident natural person and any other foreign entity, including organisations of collective placement in movable assets, without legal personality, that are not registered in Romania, according to the law.

### **2. OBJECTIVES**

A study of the fiscal system applied to the incomes made by non-residents in Romania requires an investigation of the general frame of this approach. According to us, this kind of approach must have in view, on the one hand, the number and structure

of the non-resident natural persons and the taxes owed by them, and, on the other hand, the number and structure of the non-resident legal persons and the respective taxes owed by them.

### 3. METHODOLOGY AND ANALYSES

The number of non-resident natural persons and their structure, according to their country, in Romania, in 2010, is shown in Table 1.

Table no. 1

No.	Year	Gross proceeds (Euro)	Tax (Euro)	Payments done (Euro)
1	2006	4,113,436.2	507,223.0	
2	2007	5,007,258.1	660,110.4	619,489.0
3	2008	5,849,654.7	727,212.8	775,215.5
4	2009	5,532,394.2	676,288.9	781,292.6
5	2010	3,139,127.2	376,252.8	637,454.5

*Source: data offered by the Ministry of Public Finance*

The data presented show that most non-resident natural-person tax-payers come from Italy, Germany and Turkey, followed by non-resident Romanian citizens, Hungarians, Chinese, Americans, French and Moldavian citizens. A significant difference is to be noted between the first two countries on the list (Italy and Germany) and other countries. The two countries are situated on the first places because of language and cultural similitude, in case of Italy, but also because of mutual historical landmarks, in the case of Germany, for the historic regions of Transylvania and the Banat.

The taxes owed by non-resident natural persons, in Romania, in real terms (Euro), between 2006-2010, are shown in Table no.2 and Diagram no. 1.

Table no. 2

No.	Year	Gross proceeds (Euro)	Tax (Euro)	Payments done (Euro)
1	2006	4,113,436.2	507,223.0	
2	2007	5,007,258.1	660,110.4	619,489.0
3	2008	5,849,654.7	727,212.8	775,215.5
4	2009	5,532,394.2	676,288.9	781,292.6
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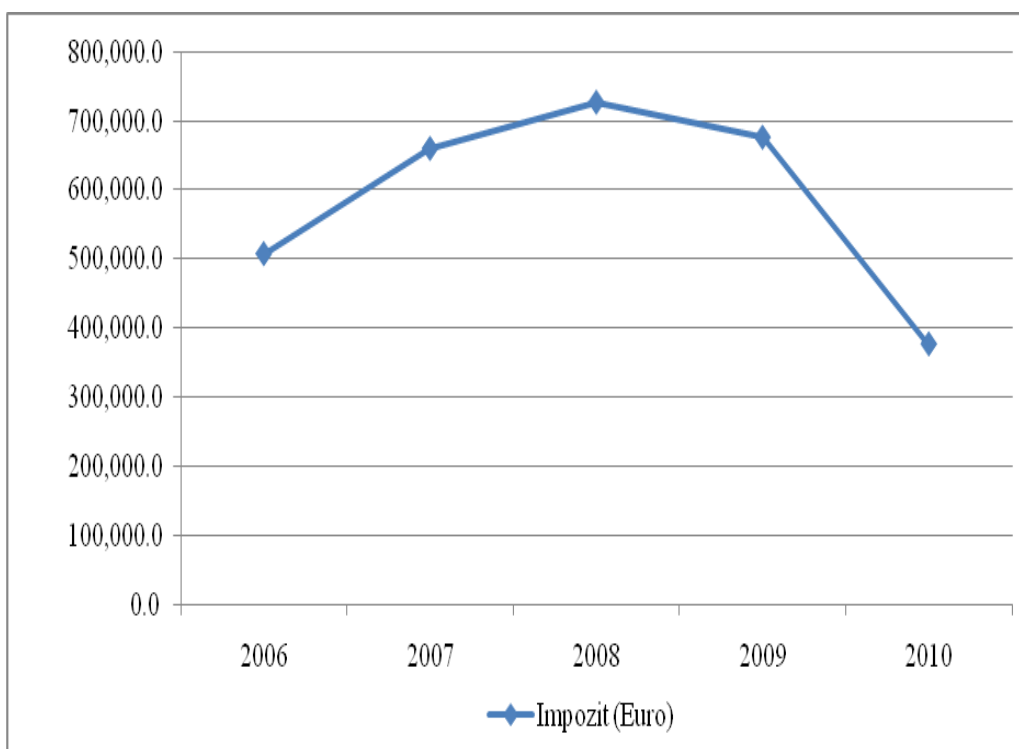
*Source: data offered by the Ministry of Public Finance*

The categories of income for which the established tax is recorded under fiscal registration were taken into consideration. The incomes for which the established tax is stopped at the source were not taken into consideration;

The amounts paid represent the due tax and accessories established for non-payment of taxes in due time.

There are no official data about payments in 2006.

**Diagram no. 1 - Dynamics of taxes collected from non-resident natural persons, in Romania, between 2006-2010**



From the data presented one can notice the existence of an ascendant dynamics of taxes owed until 2008, followed by a descent in 2009 and 2010. The economic crisis has seriously cut down the flow of non-residents, a fact which determined decreases in the value of gross weights obtained, from more than 5,8 mil. Euro in 2008, to less than 3,15 mil Euro in 2010.

The number of non-resident legal persons and the structure according to their country, in Romania, in 2010, is shown in Table no.3.

**Table no. 3**

No.	Country	Number	Number of which crossed off	Number of active tax-payers
1	Germany	726	123	603
2	Italy	682	131	551
3	Hungary	465	74	391

4	<b>Austria</b>	<b>402</b>	<b>64</b>	<b>338</b>
5	<b>Great Britain</b>	<b>376</b>	<b>58</b>	<b>318</b>
6	<b>France</b>	<b>358</b>	<b>91</b>	<b>267</b>
7	<b>U. S. A.</b>	<b>285</b>	<b>59</b>	<b>226</b>
8	<b>Turkey</b>	<b>225</b>	<b>32</b>	<b>193</b>
9	<b>Spain</b>	<b>220</b>	<b>16</b>	<b>204</b>
10	<b>Other states</b>	<b>2216</b>	<b>404</b>	<b>1812</b>
11	<b>Total</b>	<b>5955</b>	<b>1052</b>	<b>4903</b>

*Source: data offered by the Ministry of Public Finance*

As in the case of natural persons, the highest number of non-resident legal persons come from the same area, common for Romania: Germany and Italy, to which Hungary and Austria are added.

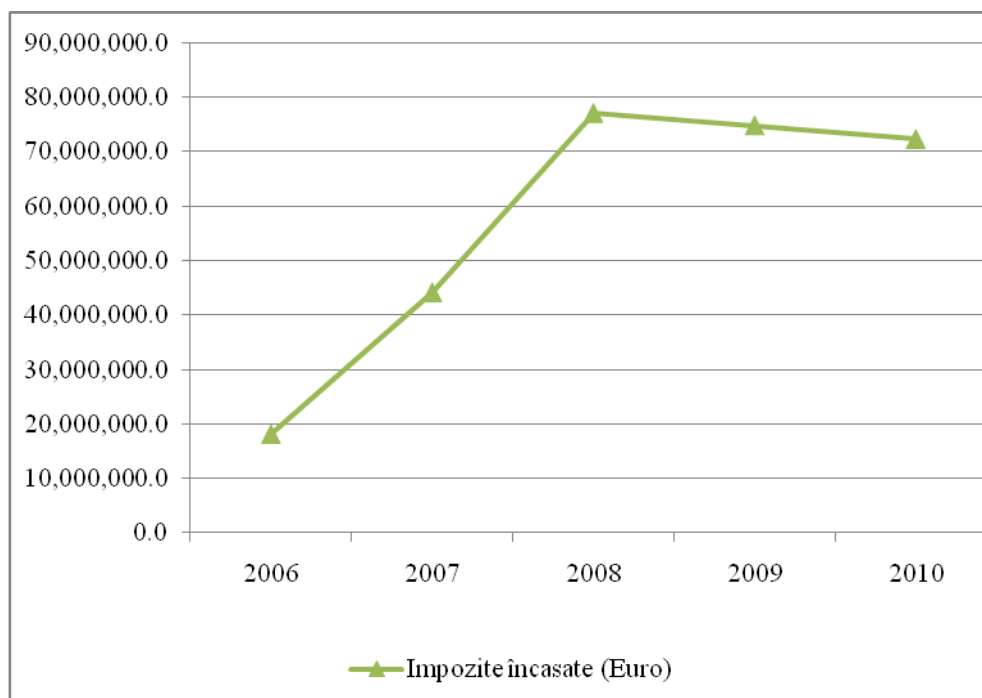
The taxes collected from non-resident legal persons, in Romania, in real terms (Euro), between 2006-2010, are shown in Table no.4 and Diagram no. 2.

**Table no. 4**

<b>No.</b>	<b>Years</b>	<b>Taxes collected (Euro)</b>
<b>1</b>	<b>2006</b>	<b>18,226,537.6</b>
<b>2</b>	<b>2007</b>	<b>44,213,222.4</b>
<b>3</b>	<b>2008</b>	<b>77,043,635.6</b>
<b>4</b>	<b>2009</b>	<b>74,794,850.4</b>
<b>5</b>	<b>2010</b>	<b>72,268,073.5</b>

*Source: data offered by the Ministry of Public Finance*

**Diagram no. 2 - The dynamics of the taxes collected from non-resident legal persons in Romania, between 2006-2010**



#### 4. CONCLUSIONS

The data show that the sums raised from taxes collected from non-resident legal persons manifest a tendency to increase. This trend presents a certain flattening between 2008-2010, caused by the economic crisis.

In conclusion, one has to highlight the fact that the emergence of the crisis did not "amputate" the sums raised from taxes paid by non-resident legal persons, as it was the case with natural persons, because of a "higher rigidity" of the flexibility of the turnover, this presenting both medium and long term adjustment (the incomes of natural persons and, in consequence, the taxes owed by them, react much more „violently”).

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