

Crisis and After Crisis Approach on the Automotive Market vs States Authorities

Liviana Niminet

Department of Accounting, Audit and Economical-Financial Analysis,
Faculty of Economic Sciences, "Vasile Alecsandri" University of Bacau, Romania.
liviana.niminet@ub.ro

Abstract

The Romanian automotive market long challenged by the crisis was and still is in need for a "breath of fresh air" from state's authorities. In what extend this happened over the years and where the policy regarding that matter led to are the cornerstones under analyze, following the preceding article.

Key words: automotive market, EU, authorities, tax.

1. Introduction

As we have shown in our previous article the automotive market of Romania had, over the last years, to face not only the global changes conducted by the economic crisis but also internal turmoil due to taxing measures or governmental programs.

Not once the "civil voice" argued that State's authorities do not have an unitary long term policy concerning one of the most important industry- the automotive one. Governmental instability over the years led to different approaches concerning this issue and the pinterest changed rapidly from environmental concern to protection of the internal producers, and then to the renewal of the motor vehicle park

Two were the most important directions of the Romanian Authorities paths: the "Rabla" program (renewal of the auto park) and the First Registration Tax aka Pollution Tax.

One can easily suppose that these two must go hand in hand given the fact that the purpose of both should be a cleaner air and less polluting cars. This might have worked in an ideal situation but over the years in quite a few situations the reality should the opposite: older, more polluting cars had to pay a smaller environmental tax then new cars all because of the "lifespan" theory. This theory argumentation was that a new car has a bigger lifespan and thus it pollutes more than an older car that even though it has a more polluting engine has a smaller lifespan. Despite this argumentation, the economic reality showed that unless buyers are given some really good advantages, they will continue to drive extremely old, polluting and even dangerous cars way beyond the "approximated lifespan". And this means that the theory does not work. Considering the fact that the renewal of the auto park was blocked over the years due to the lack of funds and that the registration tax for a new car was bigger than the amount paid for the one destroyed in the "Rabla" program it is no wonder why these to programs did not accede the expected success.

2. A present history – auto tax

It all started back in 2007 when Romanian authorities initiative of imposing a first registration tax faced the infringement procedure initiated by EC that virtually led to a dead-end for this tax.

One year later, in April the Government approved a new form of the tax having higher expends for the new cars whilst for the used ones it decreased. Following numerous protests, by December the Government decides to triple the tax for second-hand cars and more numerous protests follow.

2009 brings a new form of the tax with a shortage by one third for the used cars. A couple of months later the Environment Ministry introduced a new idea of replacing the tax with a annual fee that includes CO2 emissions, and once again the EC requests the change of the discriminatory tax

In 2010 the authorities decided that the Euro4 engines, that were excepted from payment one year before, must also pay the tax. In September same year the Environment Ministry announced the raise of the tax for used cars and in November it was decided that starting 2011 the tax is to be paid also by Euro 5 engine cars.

In April 2011 the European Court of Justice decided that the tax was discriminatory and this led to another change consisting in the fact that even the cars registered before 2007 were to pay the tax on their first sale. In August that year the Government approved the Law project on the auto tax matter.

The beginning of the last year brought the enforcement of the New Law together with the suspension of the article which imposed the payment of the tax for the before 2007 registered cars¹.

3. 2013- A new approach?

This year began with quite a rumor on the automotive market. After a few extremely challenging years due to the economic crisis and the not very impressive success of the “Car Park Renewal Program” the new Environment Ministry, Rovana Plumb came with a new form of the tax: the “Environment Stamp” that is supposed to be “a essential instrument for the renewal of the auto park that also is to contribute in lowering the emission of polluting gas, as Romania international engaged”.

This environment stamp, say the authorities, is the first form of the tax that really is about pollution according to the European and even worldwide principle “polluter pays”. When calculating an amount for this form of the tax is no longer about how big and powerful an engine is, but how polluting is it. However the power of the cars’ engine still matters when calculating the annual car fee.

This Stamp is to be paid by passenger cars and light commercial ones (8+1 places) whilst for the trucks the first registration tax is to be paid. Another change is that the amount is different on the ground of fuel: the stamp for the diesel cars being cheaper than the stamp for the gas, more polluting cars. However the officials say that for an Euro5 engine car the differences from a gas or a diesel car are very small, but still for a Euro 5 engine Dacia Logan on gas the tax is 109 Euro while for the same Dacia Logan on Diesel, with a bigger engine but lower polluting emissions the Stamp is 50 Euro. This is not a small difference; is more than double.

From the payment of the tax are excluded the vehicles belonging to the Police, Fire Department, Ambulance, SMURD, Romanian Army, States Security Forces, The Diplomatic Core, but also the handicapped persons. Also are excluded from the payment those who had paid the tax in another form.

Extremely interesting is the fact that all those who had sued Romania for refunding the illegal auto tax paid and had won as well as those that registered the cars without paying any form of the tax are to pay the Stamp on the car’s first resell. For the cars resold outside Romanian borders the state will refund a residual tax calculated according to the period of use.

Another novelty is that the State gives a 2500 Euro worth “EcoTicket” for those buying an electric car.

However the State is facing a very difficult situation due to the fact that most of the Romanians that sued State for an illegal Auto Tax have won and the amounts that have to be paid exceed in many occasions the sums received for the first registration. Let us take as example the month of January 2013: the State received from the first registration tax 14 millions lei whilst the refunding requests summed 19 millions lei. So it is very important what happens in the next months not only as a reaction of the automotive market, but also for other governmental programs such as the above mentioned “Car Park Renewal Program” or the Green House Program.

¹ A more detailed analyze on the history of Auto Tax: L. Niminet, Turmoil on the Automotive Market: Insight Perspective, BRAND, Volume3, Issue3, 2012, p.81-84

The Government always sustained that the money coming from first registration or environmental tax are to sustain the program of car park renewal. Let us now see how the statistics look like:

Year	Car Park Renewal Program (allocated sums)	First Registration income
2010	722 millions	1,62 milliards
2011	228 millions	2 milliards
2012	114 millions	275 millions

Source: National Institute of Statistics

Are those numbers to respond questions or to raise more? What has happened with the difference? What are authorities expecting from the new Environment Stamp?

The new computing formula enclosed in the law's framework leads to a 10 percent raise of the tax for Euro 3 and Euro 4 cars and to a decrease of about 60 percents for non-euro, Euro 1 and Euro 2 cars. This fact determined more disputes, the civil voice saying again that neither the new form respects the principle "polluter pays".

Their argumentation is based on the systems applying successfully in other European countries such as Germany or Austria where the tax is zero for the new cars while raising proportional to the age of the car. The Stamp is, as they say just another form of the auto tax as it was created 5 years ago and refurbished in 2011. When the new law proposes the reduction of the tax for non-euro and Euro1 and 2 cars it contradicts the "polluter pays" principle. The innovation consists, as they say in the single fact there is no named "tax" but a "stamp", and the stamp is to be paid also when reselling a car already registered before 2007.

For a better understanding let us take the following example: For a BMW car from 2000 having a 2 000 cmc engine the tax before 2013 was 700 Euro. The Stamp is now over 1100 Euro. Giving the fact that the market value for that car is somewhere around 2000-3000 Euro, a question is raising: what is the impact of that Stamp on the property right? The property right has three essential components: *usus*, *fructus* and *abusus*. *Usus* refers to the right of use; *fructus* refers to the right of benefit from ones property (such as loans or interests) and finally *abusus* refers to the right of dispose that meaning that one can do whatever he/she wants with his/her property: sell it, donate it, or even destroy it. This last component is in fact the most important. The Romanian civil law says that no one can constrain ones right of dispose about its property. Now let's go back to our example: when setting a tax that's worth is over one half of the market value of that item what happens with the right of dispose, with the *abusus*, is that a constrain for the property or not? Many would say it is and that furthermore it is a big property violence and a contradiction of Constitution itself. A deeper analyze show that for another car, let us say a Dacia Supernova from 2001 the Stamp is less than 700 Euro while the older form of the tax was double. We are talking about an Euro 2 car.

On a closer look we can gather that the main worry for the Government was not being sued or "punished" by the European Courts. This Environment Stamp is almost "unbreakable" for judges or Europeans by reducing the enormous discrepancies from the different car categories whilst positively discriminating those that intend to buy an old car from Romania.

If the only guiding principle is "polluter pays" how come that for a 20 years old Dacia no form of tax is paid although it is driven through the streets and thus it pollutes, but for an European car brought to Romania, from the "larger European family" one form of the tax was and still is to be paid. Some would say this is discriminatory... and it is not an unique case because from almost 5 million cars in Romania over 1 million are 20 or more years old, and this says a lot about the pollution and the air that we breathe, says a lot about what people can afford, about the economic context. And it is one more question: if you can only afford to buy a 2000 Euro worth car, which is the amount you can afford as Auto tax/ Environment Stamp? All those that

The framework also prevails that all those have paid a bigger tax over the last year (January 2012- February 2013) can ask for a refund of the difference.

4. Conclusions

On extremely challenging economic times every government role is to seek for solution to ease things up, and to see for better ways. Looking at authority's last five years actions and measures we can wonder about its objectives. Does the measures work, do they make people go by easily over the crisis, do their living standard improve, ultimately do they breathe a cleaner air (if we think about the final scope of the "environment" tax)? Are the authorities doing what they are supposed to do, that is to protect above all the interest of the citizens, to protect their rights? What happens with the right of property when a tax amount is set as to restrain the dispose right? What happens with the right to a fair and non discriminatory treatment when an European citizen can not buy a European car without having to pay double of its price?

The essence and definition of every tax is that it is "an amount of money paid by the citizens in exchange of a right or privilege"...where are these rights and/or privileges one could ask himself? As we also said in the previous article on that matter perhaps the most in discriminatory form of tax is the one included in fuel price, this and only this refers strictly to the pollution respecting the principle "the polluter pays".

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