

## HARMONIZATION OF TAX POLICIES: REVIEWING MACEDONIA AND CROATIA

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### **Abstract**

The tax harmonization is a complex issue in the process of European integration. The tax harmonization is a process of convergence of the tax system based on mutual set of rules and, in general, it means existence of identical or similar tax rates for the tax payers in European Union, i.e. Euro zone. In case there are identical tax rates, then we are talking about a, so called, total explicit tax harmonization, whereas, if there are similar tax rates, we are talking about partial explicit tax harmonization, which refers to determination of the highest and the lowest tax rates. Thus, countries can determine the tax rates of certain taxes. The total harmonization, besides tax rates harmonization, means structural harmonization or harmonization of the tax structure. The harmonization of direct taxes mainly relies on the following main objectives: avoiding tax evasion and elimination of double taxation. The harmonization of regulations and directives in the field of indirect taxes is necessary in terms of establishing a single market, or removal of barriers to the free movement of goods, people, services and capital.

**Keywords:** legislation, tax harmonization, European Union, tax systems.

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### **INTRODUCTION**

Whether a country can be a part of the Euro zone and adopt the euro as the national currency depends on these rules, which are also called criteria for convergence of national economies. They are as follows:

- Price stability (level of inflation), the inflation rate must not exceed 1.5% of the average of the three countries with the lowest inflation rates, thus requiring high stability of the domestic currency;
- The budget deficit should not exceed 3% of GDP in the previous year;
- Government debt should not exceed 60% of GDP in the previous year;

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- Long-term interest rate should not be more than 2% above the average of the rates of the three countries with the lowest inflation rate.

To maintain and facilitate economic and monetary union in terms of conducting the fiscal policy, Stability and Growth Pact has been applied since 1999. The purpose of the Pact is maintaining a budgetary discipline in the Member States after the introduction of the euro. National governments have discretion in the conduct of the tax system and tax policy, which are important markers of national sovereignty (Chang 2013).

The harmonization involves a process of removal of fiscal barriers and process of approaching the tax systems to guarantee a smooth functioning of the common market. The first step in the harmonization of indirect taxes was the introduction of value added tax. Later, there were the two directives in the tax system of the Council of the European Community, which provide uniform rules for all countries (Eggert and Genser 2001).

Although all members of the European Union implemented VAT in their tax system, yet there are significant differences among them in the type and amount of tax rates, tax exemptions, participation of value added tax in total tax revenues of some countries, tax burdens, and so on.

The reforms in the tax system in terms of direct and indirect taxes are an adjustment of directives and other legal acts in the European Union (Remeur 2015).

## **1. THE ADOPTION OF THE EU RULE IN THE FIELD OF TAXATION IN THE REPUBLIC OF MACEDONIA**

Taxation is a complex economic, financial and social problem, which refers to the various types of taxes that are regulated by special laws, legal rules and regulations (Sorensen 2004). Tax reforms that occurred in developed countries were the result of the presence of tax evasion in large-scale application of high marginal rates the implementation of high marginal tax rates, the increase of public expenditure, budget deficit and public debt, globalization and mobility of capital, avoiding fiscal distortions and more (Zodrow 2003).

The national programme for the adoption of the EU rule in the field of taxation (Cnossen 2003) consists of several parts: value added tax, excises, income tax, personal income tax, administrative cooperation and mutual assistance, operational capacity and computerization.

### **1.1. Value added tax**

Taxing the consumption of goods and services in the country is regulated by the Law on Value Added Tax (VAT), in which the requirements of the EU legislation on VAT are mostly transposed on:

- Sixth (systemic) Council Directive 31977L0388 on harmonization of legislation of the Member countries relating to turnover taxes — Common system of VAT: uniform basis of assessment,
- Thirteenth Council Directive 31986L0560, the harmonization of legislation of Member countries relating to turnover taxes — Arrangements for the refund of VAT taxpayers that are not established on the territory of the Community.

The result is alignment in the tax treatment of investment goods where by the application of the mechanism of withholding of tax, there is no tax burden in the enterprise domain, but a burden of only the final consumption, which is the purpose of VAT (Terra 2011).

In amending the Law on VAT, the provisions of Directive 32006L0112 (with all its amendments) are regarded which replaces the sixth (systemic) Council Directive 31977L0388. The law is broadly in line with these directives regarding the structure and content (subject to taxation, place of supply, tax event, tax base, tax rates, exemption, obligations of taxpayers et seq.) if provisions relating to the internal market are not taken into account.

In order to achieve greater harmonization with the European Union (Fabbrini 2014), also in 2013 there was a study of the tax laws, as well as creating the draft legislation relating to VAT with expert assistance within the five-year project-Harmonization of the Macedonian tax legislation with the European Union supported by GIZ, which ends after two sequels as of 2013.

During 2014, the Republic of Macedonia continued with the analysis of the existing legislation relating to VAT and their compliance with the Directive 32006L0112 and other tax regulations of the European Union concerning this matter.

During the period 2015–2016, there will be a continuous and intensive process of study and harmonization of legislation with the legislation of the European Union to determine the need for a law that will make amendments to the Law on VAT or will result in adoption of the new Law on VAT relevant by-laws. The synchronization process will especially be aimed at the application of VAT in the supply of goods and services within the Community.

## 1.2. Excises

Excises are indirect taxes charged on certain products, such as alcoholic beverages, tobacco products and energy. The main document by which harmonization of excise duties is executed is Directive 92/12 / EEC2 of 01.01.1993, known as Horizontal Directive, which regulates the ownership, control and movement of alcoholic beverages, tobacco products and mineral oils or oil derivatives taxed with excise (Tyc 2008).

Law on Excise Act is a fundamental right for edition of excises collected directly or indirectly for consumption on the territory of the Republic of Macedonia for: mineral oils, alcohol and alcoholic beverages, tobacco products and passenger cars, and contains provisions on taxation, excise preferences, excise exemptions, administrative obligations, registries, legal protection and penalty provisions.

Law on Excise is partly harmonized with the new System Directive of the European Union and its accompanying structural directives separately for each category of goods, which is a subject to excise duties, with:

- Directive 2008/118/ EC of 16 December 2008 concerning the general arrangements for excise duties and the abolition of Directive 92/12/ EEC
- Directive 2003/96/ EC of 27 October 2003 restructuring the Community framework for the taxation of energy products and electricity,
- Directive 2010/12/ EU of the Council of 16 February 2010 amending Directives 92/79 / EEC, 92/80 / EEC and 95/59/ EC for the structure and rates of excise duty applied to manufactured tobacco and Directive 2008/118/ EC,

- Regulation (EC) no. 684/2009 of 24 July 2009 for application of Directive 2008/118/ EC on computerized procedures for movement of excise goods under suspension of excise duties.

In June 2013, Macedonia adopted the Law on Amendments to the Law on Excise, which brought unification of excise duties and fees on tobacco products in combined excise. The Law on Excise prescribed gradually increasing of excise duty on tobacco products in the Republic of Macedonia in the period from July 1, 2014 as of July 1, 2023, in order to raise the level of excise for the gradual achievement of the level of excise duties in accordance with the directives the European Union. The latter is because, currently, there are no socio-economic conditions for accession to direct compliance with the directives and hence, in order to protect the living standards of the population to approach to a moderate increase in the excise burden.

Increasing the amount of excise duty on cigarettes and other tobacco products and excise duty on beer and alcoholic beverages is also to reduce the consumption of these products and the protection of public health in the country. The present excise rates for several excise products are still lower than the minimum requirements of the acquis.

During the period 2015–2016 there will be an intensive process of harmonization with the European Union, relating to the excise system. There will be harmonization and incorporation of the provisions of Directive 2008/118 / EC of 16 December 2008 on the general arrangements for excise duties and the abolition of Directive 92/12EEZ.

The new Law on Excises that will be compliant with the new system Directive, its accompanying structural directives separately for each category of goods which is a subject to excise duties and other relevant laws, will be implemented with the entry of the Republic of Macedonia in the European Union.

### 1.3. Income tax

Direct taxes are taxes that tax income from wages, rent, dividends or interest. These taxes are paid by both individuals and legal entities in the form of income tax.

One of the biggest changes in this context is the introduction of a flat tax. As a prerequisite for economic progress, increasing the investment and reducing unemployment in the country, the flat tax was introduced simultaneously with the income tax, which decreased the current tax rate of 15% to a tax rate of 12% in 2007 and a rate of 10%, which is valid from 01.01.2008.

Income tax is a tax imposed on legal entities – residents or non-residents, the profit realized by performing activities on the territory of Macedonia. The basis for calculating the tax for the relevant tax period is the amount of non-deductible expenses and income expressed in legal entities and related parties.

Personal income tax in the tax system of Macedonia is a type of synthetic tax, as is common in modern tax systems. This tax shall be made to the income tax or the total tax effect of the taxpayer, expressed as the sum of all net revenues generated by different sources (from employment, property, etc.), using the proportional tax rate of 10%.

Income, which is subject to taxation, consists of the following types of income earned in the country and abroad: personal income; income from self-employment; income from property and property rights; royalties and industrial property rights; income from capital; capital gains; winnings from lotteries and prize games; and other income.

Law on Income Tax regulates the taxation of profits realized by legal entities, residents and non-residents of the Republic of Macedonia.

In order to encourage investment activity and economic development of the country, the undistributed profits of companies is exempt from taxation with income tax. That is to say, companies are obliged to pay income tax (Helminen 2011), but only if they decide to distribute dividends and other distributions of profits at the time of payment, except for dividends paid to legal entities – residents of the Republic of Macedonia. The amount of non-deductible expenses for tax purposes, companies also have an obligation to pay tax.

The harmonization of corporate tax (Mintz 2004) is necessary, in order to facilitate the work in the time of globalization of the market and attraction of investment. More serious steps towards harmonization of direct taxes were made in 1990, when they made a report aimed to determine consistency and strength of connections between taxing the enterprises in the European Union and the creation of a common market.

According to Article 11 paragraph 2 of the Income Tax there is a Regulation to bring standardized amounts of shrinkage, wasting, rubble and scattering of goods and certain products identified for each appropriate branch for tax purposes.

The competent institutions for the implementation of the Law on Profit Tax are the Ministry of Finance and the Public Revenue Office.

During 2014 the study of EU directives relating to the system of income tax continued. In the period 2015–2016, there will be further harmonization of the Law on Profit Tax with EU directives.

#### **1.4. Personal income tax**

Law on Personal Income Tax regulates the taxation of income of individuals, realized during the year as the sum of the following types of income, personal income, income from self-employment, income from property and property rights, royalties and Industrial Property rights, capital income, capital gains, winnings from lotteries and other income. Apart from the revenue of which tax is paid, the law regulates the income exempted from taxation, the taxpayer, tax base, tax rate and method of calculation and payment of personal income tax. In parliamentary procedure, there is the Law Amending the Law on personal income tax with the proposed deletion of the existing exemption from taxation of income from sale of used solid waste.

There is also a suggestion to simplify the system of taxation of taxpayers – providers of self-employment and sole traders by introducing the concept of self-taxation. With the introduction of this concept, the taxpayers will calculate the annual income tax themselves in tax balance, based on data of the annual tax income for the previous year. The bill also makes amendments to current law, in order to further specifying, clarification and elaboration of the Law regarding the application and implementation of agreements on avoidance of double taxation. .

The adoption of the proposed amendments to the Law on Personal Income Tax will also reduce the administrative burden of the Public Revenue in the drafting of tax decisions, faster and more efficient collection of revenue from personal income tax, clarification of existing provisions and law enforcement agreements on avoidance of double taxation concluded by the Republic of Macedonia and other countries.

The competent institutions for the implementation of the Law on Personal Income Tax are the Ministry of Finance and the Public Revenue Office.

During the period 2015–2016, the compliance of the Law on Personal Income Tax with the directives and recommendations of the European Union will continue.

### **1.5. Administrative cooperation and mutual assistance**

The harmonization of the legislation regarding mutual assistance in direct taxation, amended by Directive 31979L1070 number of 06/12/1979, is through the Agreements on avoidance of double taxation concluded between the Republic of Macedonia and the Member States of the European Union funding.

Macedonia has concluded 43 Agreements for the avoidance of double taxation. There are 24 agreements with Member countries of the European Union out of the total number of 43 agreements.

The agreements for the avoidance of double taxation and the prevention of fiscal evasion, which Macedonia has signed with other countries including the Member countries of the European Union, represent the legal framework and basis for promoting economic cooperation between the Contracting countries in both the domain of exchange goods and services and in the area of joint ventures.

As a basis for the conduct of negotiations in the conclusion of these agreements, the OECD model is used. The exchange of information with countries, which concluded international agreement on avoidance of double taxation, is made based on the contract.

The exchange of information with countries, which not concluded an international agreement on avoidance of double taxation, is made through the body of the state administration, which is responsible for Foreign Affairs (Ministry of Foreign Affairs).

Therefore, the negotiations on agreements on avoidance of double taxation with EU member states and other non-European countries, as well as the establishment of electronic and spontaneous exchange of information with Member countries and other countries, will continue.

### **1.6. Operational capacity and computerization**

In accordance with the strategic priorities of the Public Revenue Office (PRO) in the period 2014–2016, PRO will continue to strengthen the administrative capacity and raising the quality standards of operation supported by the high degree of computerization of work processes by providing services to taxpayers and the systematic and modern education of employees in order to approach the practices and standards of the European Union (Wasserfallen 2014).

The document is in compliance with:

- The programme of the Government of the Republic of Macedonia for the period 2011–2015;
- The recommendations listed in the report prepared after completion of the tax administration reform implemented in Fiscal Affairs Department of the IMF;
- Strategic Plan of the Public Revenue for the period 2014–2016.

The legal framework for the operation of the Public Revenue, general tax law and tax administrative procedure defined in two Acts- The Law on the Public Revenue and Tax Procedure Law.

The Law on the Public Revenue, which was adopted in September 2005, is a legal framework that regulates the scope, organization, the way of performance of the operations and management, as well as the powers and responsibilities in collecting, recording, processing and data protection about the work of the PRO.

By means of the amendments to the Act of July 2008, they created a legal framework for the new organization of the Public Revenue on a functional model and the change of the status of employees in tax officials.

The Law on Tax Procedure, which was adopted in January 2006 year and the amendments in the coming years, there is a general tax law, the procedure of determining the tax control procedure, the procedure of collection of public revenues, rights and obligations of tax-binders, complaint procedures, conduct of legal proceedings and offense provisions.

Starting from the mission — to provide high quality services to taxpayers, the activities of the Public Revenue Office are directed primarily to simplify the tax procedures and procedures for conducting business, reduction of time and costs for reporting and payment of tax and increasing voluntary compliance and legal tax obligations by obligees, while promoting the trends of electronic communication by introducing new and developing the existing e-services.

Introducing a system of quality management, integration of tax records and automation of tax procedures that will result in further reducing the time and cost of tax procedures, the efforts of the Public Revenue Office to achieve the fulfillment of the following medium-term priorities:

- creation of electronic files for all taxpayers
- portal E-learning — introduction of an electronic system for knowledge management
- introduction and compliance of workflows in PRO according to ISO 9001: 2008–Management System Quality,
- exchange of data and connection of the PRO system with other institutions
- introducing compliance management (risk management),
- expansion of services for registration of taxpayers in the system for e-Taxes,
- introduction of controls for e-trade within the Inspectorate for special controls.

## **2. HARMONIZATION OF TAX LEGISLATION IN THE AVOIDANCE OF DOUBLE TAXATION BETWEEN MACEDONIA AND CROATIA**

Despite the major efforts, there is not yet a complete harmonization of the tax systems of countries - members of the European Union (Bénassy-Quéré, Trannoy, and Wolff 2014). In order to avoid double taxation (Holmes 2007) with respect to taxes on income and on capital, Macedonia and Croatia made an agreement in Zagreb on July 6, 1994, by which they regulated all aspects to avoid double taxation. This Agreement will apply to all people who are residents of one or both of the Contracting countries.

This agreement is concerned and will apply with respect to taxes on income and property taxes that notes a Contracting country or its local authorities, irrespective of the manner in which they are charged. Therefore, according to it, the income tax and property tax are all taxes imposed on total income, profits and the entire property, or on elements of

income or of capital, including taxes on gains from the alienation of movable or immovable real estate, taxes on the total amounts of wages or salaries paid by enterprises.

In addition to the income tax and property tax, this Agreement will apply to any identical or substantially similar taxes that would be introduced after the conclusion of the agreement between Macedonia and Croatia. At the end of each year, the competent authorities that are predetermined by the Contracting countries will notify each other of any significant changes that have been made in their respective taxation laws.

This contract included the key moments and regulated both indirect and direct taxes. So, for example the tax on real estate, the income of a resident of a Contracting country from immovable real estate which is situated in the other Contracting country may be taxed in that other country.

Immovable real estate includes also the accessory which belong to the property, livestock and equipment used in agriculture, forestry and fisheries of any kind, rights to which general provisions of land ownership, usufruct of immovable real estate and rights to variable or fixed payments as compensation for working age are implemented, or the right to work, mineral deposits, sources and other natural resources. Among other things, stated that ships, aircrafts and road vehicles will not be regarded as immovable property.

Then, the profits from the activity, which is realized in the country of the enterprise of the other Contracting country may be taxed only in that country unless the enterprise carries on business in the other Contracting country through a permanent establishment situated therein. If the company, however, carries on business in the other Contracting country through a permanent establishment, the profits of the enterprise may be taxed in that other country but only to the profit that can be attributed to a permanent establishment.

In addition to that Agreement the profits derived by an enterprise from using ships or aircraft in international traffic is regulated, which will be taxable only in the Contracting country where the effective management of the enterprise is situated.

In respect of dividends paid by the company which is a resident of a Contracting country to a resident of the other Contracting country will be taxable only in that other country, but such dividends may also be taxed in the Contracting country of which it is a resident company paying the dividends and is in accordance with the laws of that country but only if the recipient is the beneficial owner of the dividends.

The agreement also settled the case when a company which is a resident of a Contracting country derives profits or income from the other Contracting country, that other country may not impose any tax on the dividends paid by the company, only if such dividends are paid to a resident of that other country or if the law on the basis of which the dividends are paid is effectively connected with such permanent establishment or fixed base situated in that other country, nor can the undistributed profits of the company be taxed by tax of undistributed profits of the company, even if the dividends are paid or the undistributed profits wholly or partly consist of profits or income arising in such other country. For residents of Macedonia the double taxation will be eliminated if a resident of Macedonia derives income or owns capital which, in accordance to the contract, may be taxed in Croatia, Macedonia will approve as a deduction from the tax on the income of that resident, an amount equal to the amount of tax paid in Croatia and as a deduction from the tax on capital of that resident, an amount equal to the property tax paid in Croatia.

Unlike residents of Macedonia, double taxation will be eliminated for the residents of Croatia, if a resident of Croatia derives income or owns capital which, in accordance with the contract may be taxed in Macedonia, Croatia will approve it as a deduction from the tax on income to that resident, an amount equal to the income tax paid in Macedonia as a



deduction from the tax on capital of that resident, an amount equal to the property tax paid in Macedonia. The citizens of both countries i.e. the Contracting countries will not be subject to any taxation or any requirement connected therewith in the other Contracting country, which is different or more difficult than the taxation and connected requirements to which citizens of that other country in the same circumstances, are or may be subjected.

After this brief overview of the contract harmonization of tax on income and capital between Croatia and Macedonia, we can say that the authorities that are assigned by the countries themselves, will continually exchange information that would be required for the application of the provisions of this agreement or the domestic laws of the Contracting countries concerning taxes covered by the Agreement in so far as the taxation there under is not contrary to the Agreement. The exchange of information is not restricted and any information exchanged and received by a Contracting country will be treated as secret in the same manner as information obtained under the domestic laws of that country and will be disclosed only to persons or authorities having jurisdiction for the assessment or collection of taxes, the enforcement or prosecution in respect of the determination of appeals in relation to, the taxes covered by the agreement. People or authorities who are responsible for this information, will use the information only for such purposes as provided in the agreement.

Agreement between the two countries takes effect from the date of exchange of diplomatic notes that indicated the completion of the internal legal proceedings which was necessarily required in each country for the entry into force of this Agreement, and also this Agreement will apply in respect of income and property owned during the taxable years beginning on or after the first of January in the calendar year that follows the year after the entry into force of this Agreement.

## **CONCLUSION**

Taxes are a public duty and are a forced fundraising from individuals, companies and organizations, i.e., taxpayers, to finance public goods and services. Taxes as a public duty are mandatory and irreversible monetary obligations imposed on the state to meet the public good, as well as to achieve certain economic, social and other purposes in society.

Tax Policy examines the creation and adaptation of tax system that is needed to finance the chosen level of public expenditure. This system is characterized by fairness and efficiency and aims to maintain the budget in balance over a production cycle and to be harmonized with international tax standards. When it comes to the harmonization of tax systems, it may be full, which means identical tax bases and rates, and partial harmonization or approximation, which includes setting minimum or maximum rates, the elimination of double taxation and so on. The analysis of the tax systems of the Member States of the European Union shows that there are countries among which there are no differences in the structure of tax revenues, in which there is an equal number of tax mitigations and exemptions that exist in equal number and amount of tax rates.

In recent years, the reforms in tax systems consist in moving the focus from direct taxes to consumption taxation, which is accomplished by expanding the tax base in consumption taxes and narrowing of the exemptions and exemptions from the tax.

The harmonization of regulations and directives in the field of indirect taxes is necessary in terms of establishing a single market, or removal of barriers to the free movement of goods, people, services and capital.

Direct taxes are not mentioned in the Treaty on European Union, and therefore harmonization encountered a number of obstacles. European Union seldom deals with the study of personal income of individuals, but when it does, it does in terms of achieving equality in working conditions in all countries – members. In the area of taxation of profits for companies, the European Union has two main goals: to prevent harmful tax competition between countries – members and to allow the free movement of capital.

The harmonization of direct taxes mainly relies on the following main objectives: avoiding tax evasion and elimination of double taxation. Maintaining a degree of harmonization of direct taxes is needed to prevent distortion of competition, especially in the investment decision-making. Income tax is different in the Member countries of the European Union. Apart from the payment of income tax, companies or Enterprises pay a dividend to its shareholders. In some countries, the dividend is exempt from paying income tax or there are various exemptions amounts.

Revenues generated from different sources, such as employment income, by performing some activity, capital income, income from property, capital gains and other income in the countries – members of the European Union are taxed at personal income tax. As a taxpayer occurs the individual, for the income gained individually. EU legislation rarely deals with the taxation of individuals, which is the reason for the lowest degree of harmonization of personal income tax.

After the independence of Macedonia, the commitment to building an economy with market principles, requested making major reforms in the tax system, which would create a tax system that will be more efficient, rational and compatible with the tax systems of countries with a market economy, especially with the countries – members of the European Union. According to this determination, since the beginning of 1992 “The concept for a new tax system of the Republic of Macedonia” was built. The conception of a new tax system proposed solutions to the tax structure and regulation of the main types of taxes that were established on the patterns of tax systems that exist in developed European countries. By the suggestions which were offered, both the fiscal policy in Macedonia and the objective possibilities for successful implementation of the new tax system were covered.

The biggest reforms which were made in the Republic of Macedonia to the new tax system in 1994, were actually the reforms referring to the consumption taxing. From April 1, 2000 the value added tax (VAT) began to apply. The taxation of trade of alcoholic beverages, oil products and tobacco products are made with excise, which are arranged according to European standards.

By the introduction of these reforms in indirect taxes, the tax system of the Republic of Macedonia in the taxation of trade becomes compatible with the tax systems all countries – members of the European Union.

The taxation of consumption in the country is regulated by the Law on Value Added Tax, which at the same time introduces the value added tax and regulates its calculation and payment, and the Law on Excise, which introduces excise payment for delivery of products as defined by the law (mineral oils, alcohol and alcoholic beverages, tobacco products and passenger cars).

The main reforms that have been made in terms of direct taxes, as mentioned, are concerning the replacement of the tax system with two new types of taxes, i.e. corporate tax and personal income tax.

Since the introduction of reforms in the tax system of Macedonia, tax revenues that have been analyzed in terms of total participation in budget revenue from year to year,

record steady growth. This is due to the intense pace of economic activity as reflected in GDP growth, increasing the coverage and responsiveness to taxpayers and reduction of tax evasion.

Taxes, and the overall tax system, in general, help to affect several aspects of the economic situation in Macedonia. The impact of taxes in the modern economy is versatile and important, and you cannot imagine the functioning of any modern financial and economic system without these. So there is no activity or industry upon which the state does not act with their tax revenue, either directly or indirectly. Thus, they are able to monitor the effects of the fiscal strategy and tax policy on an economy.

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