

VALUE ADDED TAX (VAT) - FINANCIAL RESOURCE OF CONSOLIDATED BUDGET

Economist Florea Costache Ec. D Student
University of Timisoara
Faculty of Economics and Business Administration
Timisoara, Romania
Prof. Marius Herbei Ph. D
University of Timisoara
Faculty of Economics and Business Administration
Timisoara, Romania

Abstract: The objective of tax administration on value added is the administration and collection on rates established and in the amount predicted by the consolidated budget and especially to combat tax evasion and fraud. It is very important combating tax evasion in the area of VAT, because it is the mass of indirect tax tax-free taxable with the largest share in general consolidated budget. VAT evasion is the intention that is induced by under-declarations or not declaring them, or request a refund undue of them, as a result of exaggeration of the amount of tax deductible.

JEL classification: H21, H25

Key words: value added tax; tax evasion; double taxation; budget; financial resources;

1. INTRODUCTION

The objective of tax administration on value added is the administration and collection on rates established and in the amount predicted by the consolidated budget and especially to combat tax evasion and fraud. It is very important combating tax evasion in the area of VAT, because it is the mass of indirect tax tax-free taxable with the largest share in general consolidated budget. VAT evasion is induced by under-declarations or not declaring them, or request a refund undue of them, as a result of exaggeration of the amount of tax deductible.

Essential objective of the inspector tax authorities is to verify the accuracy the VAT declaration value. Also it must be observed that inaccuracy is deliberate or whether it was due to disagreement, negligence or ignorance payer. In all situations it is necessary for the negligence discernant recourse to correct the payment amount and payment of fines and /or penalties for fraud and intentional action is instituted to obtain a conviction.

The most frequently form of evasion in this area is not declaring their non-registration of sales and accounting:

- a) internal sales of goods, excluding VAT, with the explanation that the company's export deliveries commission of such goods, the explanation is false, and the measures of calculating and paying VAT plus the default;
- b) internal supply of goods without VAT calculation, on the ground that the beneficiaries of those goods are non-taxable public institutions. Control found that

supplies do not fall under any of the exemptions and or required calculation and payment of VAT plus delay penalties;

- c) the lack of monthly returns of VAT on supplies from unpaid invoices internal and Value Added Tax registration not due until receipt of invoice.

False deductions are other methods of tax evasion and false invoices is performed, invoices mostly used for deduction or invoices related to purchases that were never made. Thus there are examples of businesses who have exercised their right to deduct input VAT of goods owned by other companies. In other cases was deducting VAT on goods or services that are not participating in the activity that the trader has purchased.

Registration errors seem innocent, but occur frequently and have a higher value, eg some businesses do not include value added tax calculated for advances received from customers but their receipt to product delivery.

2. FISCAL CONTROL AND INTERPRETATION OF LEGAL TEXTS

Have mentioned originate in a dispute usually begins with VAT returns control negative amounts required to repay or if a background check, which sometimes at a rate too high, ends by rejecting the refund amount requested, followed by their conversion to the VAT collected - such payment - along with related accessories.

The approach we propose is to try to establish whether, in a rational interpretation of legal texts can be defused the situation without a priori entitles the taxpayer to those practices located on the edge of the law.

The first interdiction on the interpretation of the tax rules of interpretation by analogy, because using such a method risk, of the one part, to extend the texts of trim, and on the other hand to extend unjustified exculpatory provisions. At the opposite interpretation method, by analogy, is strict interpretation of tax texts, a method that excludes both broad interpretation as and restrictive and eliminates the risks of using analogy.

In our opinion, interpretation and application is an insufficient approach as long as they are not considered material principles governing consideration in our case deductibility of VAT. Without going back too far in the past, we believe that the starting point is the fundamental difference between former and current tax on movement of goods tax - value added tax.

Double taxation can take the different layouts, the most common case is one in which the tax is charged by the supplier, followed by refusal deductibility of the beneficiary. Another hypothesis is that, after completion resolve appeals of the taxpayer, amounts are recognized as deductible and we believe that it has credited the state budget these amounts during the dispute.

Applying tax deduction mechanism, regardless of the number of intermediaries registered for VAT in the movement of goods and services, the total amount of VAT collected will be the same, it depends on the final price charged to the final consumer products or the first person not registered for VAT which does not recognize the right of deduction.

Reporting to the old tax on movement of goods was not random because comparing the two methods of taxation tax on movement of goods and value added service, in the first case deduction (if they exist) should be treated as an exception, whereas for VAT, this is the general rule, treated by the legislature as a right of the taxpayer (of course with limitations imposed on taxable persons or transactions exempt from this law).

Referring again to the rules of interpretation of legal texts, we find that the right to deduct, as a fundamental mechanism in the proper administration of VAT is not an exception but the rule, why not impose a strict interpretation incidents of legal texts that would eventually lead to abusive practices by the tax authority.

There should be no use of teleological interpretation, namely, the search scope covered by the legislator, as we consider it is clearly defined, the right of deduction is the right of the taxpayer, formulated by the legislature as a general rule and not the exception.

3. CONCLUSIONS

In conclusion, by analyzing the provisions of Title VI of the Fiscal Code, as do many others explicitly or implicitly governing this right, we can say that a rational interpretation in situations which require such approach is suited fact it extending rights and taxpayer obligations, nor the fisc.

Trying to justify the exercise of this right by the taxpayer without any practical limitation would put us in a position pro taxpayer unintended result ab initio (from the beginning), so we fully agree that this right can be exercised only as provided by the legislature, especially in those conditions that make direct reference to the scope of right of deduction and justification.

Literature objectively justify surprised prevalence of indirect taxes throughout the tax system in Romania for taking public funds, public opinion we concur with the concept we academician expressed by Mr. Julian Văcărel expressed in his reference that supports the Public Finance that VAT:

- a) requires a short period of time a decision imposing taxes (increase in rate) through a legislative act and to become operational;
- b) settlement advertising modest expenditures, perception and follow is higher
- c) ranging in selling price of products (prices of the services) and dissatisfaction buyer (beneficiary) is directed against businesses engaged in prices (tariffs) increased, not the state, who ordered increased taxes, led to their more expensive: the buyer (beneficiary) does not know how much of the price paid for the product (service) is the entity and how to reach the public treasury.

We affirm that the main purpose pursued by the legislature is to collect VAT rates and the amount predicted by the tax authority and eliminate VAT fraud by requiring repayment of amounts for which the taxpayer is not entitled.

As a general rule, the actions of sponsorship, advertising, protocol, and other laws prevăzuteîn actions performed within the limits and according to the destinations provided they are not delivering the goods and/or services. Înregistrateca taxable persons for VAT have the right to deduct VAT on purchases for achieving these actions.

Principally, the right to deduct tax is governed by rules established its scope as follows:

- a) the right to deduct shall arise at the time the tax becomes chargeable;
- b) everyone has the right to deduct VAT on purchases if they are intended for the benefit of (...) taxable transactions, or transactions that are exempt with credit.

Returning to the contents of the bill as evidence for the right of deduction, we see that the content is required in this regard, invoices necessarily include the following information and complete rules in that justification will be in the invoice or other documents "... contain at least the minimum required by the legislation of national tax authorities."

So we find absolution of the problem depends largely on clarifying the notion of documentary evidence in terms deductibility.

Tax Code identifies as having quality supporting document: invoice, self invoice, customs import declarations and documents certifying issued by the customs authorities. Tax Code implementing rules extend the notion of document, so you will have this as any other document (in addition to those listed above) containing information on tax legislation.

Less restrictive than the provisions of the Tax Code and in fact closer to economic reality accounting law should specify that "any economic and financial transaction made at the time they are recorded in a document underlying accounting records, thus acquiring quality document. Supporting documents underlying accounting records in binding people have developed, endorsed and approved, as well as those that have accounted for, as appropriate".

In conclusion, we believe that tax authorities can control and must take into account all the elements that can lead to the correct solution of a state of affairs, and if the lack of an element of a document can be supplemented by other relevant evidence and by a reasonable effort, refusal to recognize the right of deduction can be interpreted as a breach of legal obligations.

Otherwise we find that the date of accession, tax code has been changed and on VAT deductibility no significant changes were made to fully comply with EU court decisions.

Using the principle of fiscal neutrality, the European Court of Justice found in its decisions that the application of the common system of VAT on transactions in goods and services, the tax is proportional to the price of goods and services, regardless of the number of transactions that occur before the stage where fee is charged completely. Basically, it appears that the fee charged varies each rate and the value of goods and services traded.

References

1. Corduneanu, C. The tax system in the science of finance, Codex Publishing House, Bucharest, 1998
2. Donath L, Public finance and tax managements elements, Marineasa Publishing House, Timisoara, 2004
3. Herbei M & Popovici D Public Finance, Mirton Publishing House, Timisoara
4. Herbei M & Mocan G The modern tax profesional management, Remus Publishing House Cluj Napoca, 2010
5. Bene Gh.F Code of Practice for the collection of tax debts, Ed.CH Beck, Bucharest, 2011
6. Vacarel I and co-authors Public Finance, Fourth Edition, Didactic and Pedagogic Publishing House, Bucharest, 2004
7. Vaduva I Budget execution claims, Tribune Publishing, Economica Bucuresti, 2000