

# FISCAL AND ACCOUNTING ASPECTS REGARDING THE RELIGIOUS UNITS IN ROMANIA

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*Abstract: Taking into account the important role of the religious cults in the social life of a nation, the state, besides subsidizing from the state budget the activities unfolded as public use authorities, sustains the cult units by granting them certain fiscal facilities.*

*Thus, the religious cults acknowledged by law are exempted from paying the profit tax for revenues obtained from the production and capitalization of objects and products specific to cult units, but also for certain revenues obtained from unfolding economic activities. The capitalization of religious cult objects is also VAT exempted, as well as the payment of the tax on certain buildings and land in their patrimony.*

*For the unfolded economic activities, with some exceptions, the cult units are treated like the other economic operators.*

*Key words: religious cults, fiscal facilities, fiscal obligations, accounting activity*

According to legal provisions<sup>19</sup>, the religious structures with juridical personality are **cults** and **religious associations**, and the structures without juridical personality are **religious groupings**.

The cults recognized by law are juridical persons of public use. They are organized and function according to the law and on the basis of constitutional provisions, autonomously, according to their own statuses and canonic codes.

The component units of the cults are also juridical persons, as they are mentioned in their own statuses and canonic codes, if they comply with the requirements foreseen by them.

The state supports the cult units by granting them fiscal facilities, within the law conditions. The state also promotes the support granted to citizens of different cults by deductions from the income tax and encourages sponsorships towards different cults.

## **1. Fiscal facilities the cults units benefit by:**

Religious cults are exempted from the payment of profit tax for the following incomes: incomes obtained from the production and capitalization of objects and products necessary for cult activity, incomes obtained from rents, other incomes obtained from economic activities, incomes from cash compensation, obtained as a result of reparatory measures stipulated by the laws regarding the reconstitution of the right of property. These incomes are tax-exempt on condition that the respective amounts are used, during the current year and/or in the following years, for the maintenance or functioning of cult units, for construction, reparation or consolidation works of cult places and of ecclesiastic buildings, for education, for supplying social services, for specific actions and other non-profit activities of religious cults.

Cult units are exempted from profit tax and for revenues from economic activities realized up to the level of the equivalent in lei of 15000 euros, in a fiscal year, but not more than 10% of the total revenues obtained from activities without patrimonial aim exempted from profit tax.

**From the point of view of VAT**, the delivery of religious cult objects (liturgical vases, metallic of lithographic icons, crosses, crucifixes, little crosses and medallions with religious images specific of the cult, religious calendars) are not considered economic activities. Decorative objects and objects for marriages or christenings are an exception from these provisions.

Services and/or deliveries of goods furnished by the members of the cult units in their collective interest are also tax-exempt, according to their own organization statuses and according to canonic codes.

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<sup>19</sup> Law no 489/2006 regarding the religious freedom and the general cult regime, Off. M.11/08.01.2007.

There is also tax-exempt the furnishing of staff by the cult units in view of the following activities:

- hospitalization, medical care and other related operations, unfolded by authorized units for these activities, irrespective of their organization forms, such as: hospitals, sanatoria, centers of rural and urban health care, surgeries, medical laboratories, health care and diagnostic units, treatment and recovery centers, emergency stations and other authorized units to unfold this kind of activities;
- education, professional adult training, as well as services and deliveries of goods linked to these activities, unfolded by public institutions or by other authorized entities;
- deliveries of services and/or deliveries of goods linked to the assistance and /or to social protection, unfolded by public institutions or by other entities acknowledged as having a social character, inclusively those delivered to old age homes;
- deliveries of services and/or deliveries of goods linked to child protection and young people's protection, unfolded by public institutions or y other acknowledged entities having a social character.

Any energetic product purchased directly from the economic operators who are also tits producers, importers or distributors, used as fuel for heating the cult units, inclusively furnishing natural gas, is tax-exempt. The exemption is granted directly on the basis of the authorization of final user issued the territorial fiscal authority at which the cult unit is fiscally registered.

Cult units are also tax-exempt for:

- the buildings, which by destination, constitute cult places, except for the ones that are used for economic activities;
- buildings which constitute the patrimony of confessional education units and institutions, except for the places that are used for economic activities;
- funeral buildings from cemeteries and crematories;
- buildings retroceded to the Romanian cult units, according to the law;
- buildings used for humanitarian social activities, according to the local county's decision;
- any land of a cult unit acknowledged by law and any land of a local cult unit, with juridical personality;
- the land afferent to retroceded buildings, according to the law, during the period for which the owner is obliged to maintain the affectation of public interest.

By the syntagm buildings that, by destination, constitute cult places, we understand churches –places for prayer, houses for prayer – and their annexes. The term “lăcaș”/”religious place” is a variant of the word “locaș” (place).

The annexes of churches refer to any precincts that has constitutive elements of a building, the property of any cult officially acknowledged in Romania, such as: the steeple, the parish office, the holywaterfont, the mortuary chapel, the parish house and its outbuildings, destined as home for the priest/servant priests/serving personnel, the precincts for lighting candles, the table for selling candles, the crucifix, the warehouse for different cult objects, the social-charitable place, the xenodochium, the cell, the refectory, the precincts for unfolding administrative-religious activities, the kiriarhos' residence, as well as other activities linked to them; by social-charitable place we understand child care center, the old age asylum, the social refectory or any other precincts destined for similar activities.

## **2. The support granted to cult citizens**

The tax payers who obtain incomes from wages or incomes assimilated to wages, can dispose on the destination of an amount up to 2% of the tax due in a fiscal year, for sustaining cult units.

The tax payers who obtain incomes from independent activities, incomes from yielding a good's use, incomes from agricultural activities determined on a real system, as well as the transfer of securities, from operations of buying-selling foreign currency at term can dispose on the destination of a sum representing up to 2% of the tax due in a fiscal year, for sustaining cult units.

The obligation of calculation, retention, and transfer of the 2% amount is incumbent to the fiscal agent within the area of activity of whom the tax payers have the fiscal residence, on the basis of the option exerted by the annual income declaration, respectively on the basis of the request of tax-payers who do not have the obligation of the annual income declaration.

### **3. Fiscal obligations of the cult units:**

Cult units must pay a profit tax for the part of income subject to taxation that surpasses the exemption limit of 15000 euros or the part of the profit subject to taxation that corresponds to incomes other than those who are not subject to taxation. The incomes that are not taken into account for establishing the profit subject to taxation are the following:

- dues or members' registration fees;
- cash contributions or nature contributions of the members;
- registration taxes established according to the legislation in force;
- donations or cash or goods received by sponsorship;
- dividends and interests obtained from placing the disponibilities resulted from tax-exempt revenues;
- the resources obtained from public funds or from grants;
- exceptional incomes resulted from yielding corporal assets in the property of the cult units, other than those which are or have been used in an economic activity;
- the sums received as a result of non respecting the conditions in which the donation/sponsorship was done, according to the law, under the reserve that the sums in question are to be used in the current year or in the following years, for the achievement of the aim and of their objectives, depending on their own statuses and canonic codes, according to the case;
- the incomes obtained from compensations from insurance companies for damages produced on their own corporal assets, other than those which are used in the economic activity;
- the sums received from the income tax due by physical persons;

At determining the profit subject to taxation we must take into account the following elements:

1. the establishment of incomes that are not subject to taxation enumerated above;
2. determining the incomes that are not subject to taxation from economic activities, by following the next steps:
  - the calculation of the equivalent in lei of 15000 euros by the use of the average exchange rate EUR/ROL communicated by the National Bank of Romania for the fiscal year in question;
  - the calculation of the revenues which are not subject to taxation as being the least value of the amounts previously established;
3. the establishment of incomes that are not subject to taxation by adding sums from point 1 and 2;
4. determining the incomes that are subject to taxation by deducting from the total incomes those from point 3;
5. the calculation of the profit subject to taxation corresponding to the incomes subject tot taxation from point 4, taking into account the following:
  - the establishment of expenses in order to achieve the incomes subject to taxation from point 4. For this, it is necessary to use adequate keys to distribute common expenses;
  - the establishment of the deductible value of expenses determined according to the provisions of Article 21 from the Fiscal Code;

Cult units must declare and pay the annual profit tax, till the 15<sup>th</sup> of February inclusively of the year following the one for which the taxation is calculated.

B. As regards to the value added tax, the cult units may be classified as being partially taxable persons, in case they perform simultaneously economic activities submitted to VAT and activities which are outside the VAT scope.

As partially taxable persons, the cult units may be registered for VAT purposes or may be exempted from the registration as being small enterprises on the grounds of art. 152 from the TAX CODE, in so far as their annual turnover is inferior to the limit provisioned at this article.

Cult units that unfold economic activities, whose annual business turnover is inferior to the limit of 35000 euros, are VAT-exempt. The equivalent in lei of the limit is established the exchange rate communicated by BNR at the date of Romania's integration into the EU. Cult units that begin an economic activity during the year and estimate that they will achieve a turnover inferior to the exemption limit can choose the application of the normal taxation regime. After being founded, if the turnover achieved during the year is inferior to the exemption limit they can choose at any moment the normal taxation regime.

If during the year the cult units achieve or exceed the exemption limit, they must request the registration with VAT aims in 10 days from the end of the month during which this limit was surpassed.

Cult units that request the registration in VAT aims will be given a registration code only for the activity for which they have the quality of tax payer, while for activities without patrimonial aim they will be given another fiscal registration code. Once it has been granted the registration code with VAT aims, this will be valid for any other operations subject to taxation, tax-exempt or without right to deduction that it will realize in the future.

Cult units that are registered in VAT aims for the whole activity unfolded till the 27<sup>th</sup> of March 2008 must request the attribution of a registration code with Vat aims different than the fiscal registration code.<sup>20</sup>

The position of partially taxable person also generates particularities regarding the practical application of the VAT tax deduction right. Therefore, for the operations which don't belong to the VAT application scope, the cult units don't have the right to deduce the VAT aferent to the acquisition of goods and services.

In proportion to the nature of operations which constitutes the economic activity of the cult units, concerning the practical application of the right to deduce the VAT for the acquisitions of goods and services, the following situations stand out:

- the cult units have the tax deduction right for the acquisitions of goods and services designated to the taxable operations and exempted with tax deduction right
- the cult units don't have the tax deduction right for the acquisitions of goods and services designated to the operations exempted without the tax deduction right

Practically, it may lead to the situation when, for the economic activity, if it develops both operations exempted without tax deduction right and taxable activities and exempted with tax deduction right, the cult units may be considered mixed taxable persons. The mixed taxable person deduces on a pro-rate basis, the VAT aferent to the acquisitions of goods and services whose destination is unknown (respectively if they shall be used in order to accomplish operations which offer a tax deduction right or for operations which don't offer a tax deduction right) or for which it can not be determined the proportion in which are or shall be used for operations which offer a tax deduction right and operations which don't offer a tax deduction right. The partially taxable person may require the application of a special pro-rate if it can't keep separate records for the activity developed as taxable person and for the activity for which it hasn't the position of taxable person, on terms regulated by standards.

#### **4. Organization and management of the accounting activity:**

Cult units must organize and manage the accounting of activities unfolded according to the accounting settlements approved by the Ministry of Economy and Finances.<sup>21</sup>

Accounting settlements refer mainly to activities without patrimonial aim, inclusively activities with special destination, unfolded by juridical persons without patrimonial aim, and in subsidiary, to economic activities unfolded, according to the law, by these juridical persons. For unfolded economic activities, these settlements are completed with the accounting Settlements according to the IVth Directive of the European

<sup>20</sup> GD no 1579/19.12.2007 for the change and completion of the Methodological Norms of application of Law no 571/2003 regarding the Fiscal Code, approved by GD no 44/2004, Official Monitor 894/28.12.2007.

<sup>21</sup> OMFP no 1969/09.11.2007 published in the Official Monitor no 846 bis/10.12.2007

Economic Communities, approved by the Order of the Minister of Public Finances no 1752/2005, with changes and ulterior completions.

Cult units which also carry out economic activities must draft annual financial reports that comprise:

- the balance sheet;
- the account of the result of the exercise;
- explanatory notes to financial annual reports.

The accounting of incomes is carried out by types of activities, respectively activities without patrimonial aim, activities with special destination according to the law and economic activities, and within the framework of these activities on types of incomes, according to their nature.

The accounting of expenses regarding the unfolded activities is done on types of expenses, according to their nature, such as follows:

- exploitation expenses;
- financial expenses;
- extraordinary expenses.

Expenses with commissions, depreciation and adjustments for depreciation or loss of value, as well as the expenses with the profit tax and other taxes, calculated according to the law, are emphasized distinctly, depending on their nature.

Within the framework of categories of expenses according to their nature, the expenses accounts are developed compulsorily in distinct analytics on types of activities, respectively activities without patrimonial aim, activities with special destination according to the law and economic activities.

Cult units that carry out exclusively activities without patrimonial aim manage the accounting in simple party. These units do not have to draw annual financial reports.

Conclusions: Even if cult units benefit by numerous fiscal facilities, we consider that these must be extended, taking into account the important role of the cults in social life. We first think of the exemption from the payment of the tax on the profit used in charitable or humanitarian activities. The VAT-exemption could be extended also for the delivery of other goods or services, as well as the tax-exemption within certain limits applied to products subject to taxation obtained from the processing of fruit and grapes from the orchards detained in the cult unit's patrimony.

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