EXPORT BY AGENT – A CHALLENGE FOR THE TRADING COMPANIES IN SUCH FIELD, AS PER THE NEW REGULATIONS AFTER THE ACCESSION OF ROMANIA TO EU

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Before the accession of Romania to the European Union, the export by agency, as means of indirect trade of goods aboard, was carried out by exterior trading companies (SCE), which carried out such activities on their behalf, but on the risk and account of export beneficiaries – usually manufacture facilities, which needed to find customers on the international market. After the accession of Romania to the European Union, we can notice two distinct situations for the goods' delivery carried out by means of an agent: 1. the agent acts as proxy, for and on behalf of the principal; 2. the agent acts as commission agent, on his own and for the principal.

Key-words: export, agency, mandate

Until 1.01.2007, namely until the accession of Romania to the European Union, the export by agency, as means of indirect trade of goods aboard, was carried out by exterior trading companies (SCE), which carried out such activities on their behalf, but on the risk and account of export beneficiaries – usually manufacture facilities, which needed to find customers on the international market. Thus, the financial results of the goods' export by means of agency were recorded in the beneficiaries' accounting documents, on whose behalf the export was performed and not in the accounting books of SCE.

After the accession of Romania to the European Union, in accordance with the new Romanian legislation regarding the value added tax, respectively the Law no. 571/2003 regarding the Fiscal Code, as subsequently amended and completed, we can notice two distinct situations for the goods' delivery carried out by means of an agent: 1. the agent acts as proxy, for and on behalf of the principal; 2. the agent acts as commission agent, on his own and for the principal.

1. The agent acts as proxy, for and on behalf of the principal

In such case, the manufacturer from Romania invoices the goods directly to the beneficiary. If the operation is an export (the goods leave the community territory), the invoice shall be VAT free. If the delivery is an inter-community operation (the goods leave Romania, but they are shipped or transported to another member state), the invoice shall be VAT free if the customer proves a valid VAT code and if the freight is proved to be performed between two member states.

Thus, in such case the agent's role is only to establish the connection between the export's beneficiary from Romania and the foreign customer, performing, as per the mandate contract, other duties such as: to pursue the payment of the counter-value of the exported goods, to contract and pay various services abroad – such as: transportation, insurance, etc.

Let's presume we have to export goods by means of agent, for and on behalf of the manufacture facility from Romania, therefore a mandate contract. The facility exports goods in amount of € 20,000, delivery condition – CFR (Romanian Railway Company) – Destination – the country of the foreign customer. The agent-proxy SCE cashes, according to the mandate contract with the facility, the goods' counter-value from the foreign customer by means of a letter of credit, which is then provided, in 2 days time, to the principal – the plant from Romania, according to the contract concluded between SCE and the plant, but not prior withholding the expenses made for the plant, such as the fee in amount of 3% of the CFR value for the exported goods. The export expenses made by SCE for the plant have been transportation expenses in amount of € 2,000. The evolution of the Romanian currency related to euro has been as follows: upon invoicing the external transportation: 1 € = 3.80 lei; for the payment of the external transportation invoice: 1 € = 3.70 lei; for invoicing the fee to the plant: 1 € = 4.00 lei; upon cashing the merchandise from export: 1 € = 3.90 lei, upon the payment of the goods to the plant: 1 € = 3.80 lei.

The accounting procedures related to this export are as listed below:

1. The proxy buys the external transportation service:

2,000 € x 3.80 lei / € = 7,600 lei

624 „Transport of goods and personnel" = 401.1 „Suppliers" (external transport) 7,600

2. Payment of the external transportation invoice

a) RON value upon invoicing: 2,000 € x 3.80 lei = 7,600 lei

b) RON value upon payment: 2,000 € x 3.70 lei = 7,400 lei

Favorable currency difference (a – b): 200 lei

401.1 „Suppliers" (external transport) = % 7,600

5124 „Cash at bank in foreign currencies" 7,400

765 „Foreign exchange gains" 200

3. Cashing the counter-value of the goods from the foreign customer by means of documentary letter of credit

20,000 € x 3.90 lei / € = 78,000 lei

5412 „Letters of credit in foreign currencies" = 462/x „Sundry creditors" (plant) 78,000

4. 4. Invoicing the 3% agent fee to the plant

3% x 20,000 € = 600 €; 600 € x 4.00 lei / € = 2,400 lei

411 „Customers" (plant) = % 7,600

704 „Services rendered 2,400

4427 „Output VAT" 456

5. Invoicing the transportation expenses made on behalf of the plant by SCE to the plant

411 „Customers" (plant) = % 9,044

7588 „Other operating revenues" 7,600

4427 „ Output VAT" 1,444

6. Withholdings borne by the plant out of the amount owed by the plant

Amount owed (credit cont 462/x) ……………..………………………20,000 €

Withholdings: ▪ external transport: …………………………..………2,000 €.

▪ Agent fee …………………….…………………………………..600 €

Net amount to be paid: 20,000 € – 2,600 € = 17,400 €

- RON value of the withholdings, calculated as per the current exchange rate:
- External transport: 2,000 € x 3.70 lei / € = 7,400 lei
- Agent fee: 600 € x 4 lei / € = 2,400 lei

Total RON withholdings as per the current exchange rate (2,600 €): 9,800 lei

- RON value of the withholdings calculated as per the exchange rate valid when the plant undertook the obligation: 2,600 € x 3.90 lei / € = 10,140 lei.
- Favorable currency difference: 10,140 lei – 9,800 lei = 340 lei

462/x „Sundry creditors" (plant) = % 10,140

411 „Customers" (plant) 9,800

765 „Foreign exchange gains" 340

7. Payment to the plant of the net amount of 1,400 €

a) RON value upon cashing: 17,400 € x 3.90 lei = 67,860 lei

b) RON value upon the payment to the plant: 17,400 € x 3.80 lei = 66,120 lei

Favorable currency difference (a – b): 1,740 lei

462/x „Sundry creditors" (plant) = % 67,860

5412 „Letters of credit in
foreign currencies” 66,120
765 „Foreign exchange gains” 1,740

2. The agent acts as commission agent, on his own and for the principal

According the new fiscal code, the commission agent, although only an agent, is deemed - in terms of value added tax - seller and re-seller of the goods, regardless of the fact if such agent acts on behalf of the seller or buyer, principal, with all the consequences arising thereon regarding the value added tax.

To illustrate this second case, let’s discuss a practical example: SCE “EXIMTERRA” SRL is an exterior trade company, acting as agent, on its own, but on behalf of the manufacture facility. SCE performs during the fiscal year N the following operations related to *merchandise export by agent with cashing on spot.*

- On 30.05.N, SCE registers the purchase of the goods from the supplier (plant), in amount of € 15,000;
- On 1.06.N, it invoices the goods to the foreign customer, having as delivery condition – EXW, in amount of € 15,000. The fee of SCE is 5% of the external value of EXW, being invoiced on the same day as the goods for export;
- On 5.06.N it cashes, in foreign currency, the counter-value of the goods from the foreign customer;
- ON 5.06.N, it markdowns the currency with the manufacture facility;
- The evolution of the euro related to the Romanian currency has been as follows: on 30.05.N: 1 € = 3.85 lei; on 1.06.N 1 € = 4.00 lei; on 5.06.N: 1 € = 4.05 lei.

The accounting procedures related to this export by agent are as listed below:

1. 1. Registration of the purchase of the goods from the domestic supplier (plant)

15,000 € x 3.85 lei / € = 57,750 lei

% = 401 „Suppliers” (plant) <u>68,722.5</u>

461.2 „Goods for export
by agent” 57,750

4426 „Input VAT” 10,972.5

2. Invoicing the goods to the external customer, EXW delivery condition

15,000 € x 4 lei / € = 60,000 lei

411 „Customers” (foreign) = 462.2 „Sundry creditors – export by agent” 60,000

3. Removal of the sold goods from stock

a) RON value upon purchase: 15,000 € x 3.85 lei = 57,750 lei

b) RON value upon sale: 15,000 € x 4.00 lei = 60,000 lei

Favorable currency difference (b – a): 2,250 lei

462.2 „Sundry creditors - = % <u>60,000</u>
export by agent”

461.2 „Goods for export by agent" 57,750

765 „Foreign exchange gain” 2,250

4. Invoicing the fee for SCE to the plant

Fee in foreign currency: 5% x 15,000 € = 750 €

Fee in RON: 750 € x 4 lei = 3,000 lei

411 „Customers” (plant) = % <u>3,570</u>

704 „Services rendered 3,000

4427 „Output VAT” 570

5. Cashing the counter-value of the goods sold for export

a) RON value upon invoicing: 15,000 € x 4.00 lei = 60,000 lei

b) RON value upon cashing: 15,000 € x 4.05 lei = 60,750 lei

Favorable currency difference (b – a): 750 lei

5124 „Cash at bank in foreign currencies”	=	%		60,750
		411 „Customers” (foreign)	60,000	
		765 „Foreign exchange gain”	750	

6. Withholdings borne by the plant out of the amount owed by the plant

Amount owed for merchandise, VAT free (credit cont 401) ……………………….15,000 €

Withholdings: ▪ agent fee: …………………………..……………………………750 €

Net amount to be paid: 15,000 € – 750 € = 14,250 €

- RON value of the withholdings, calculated as per the current exchange rate:
- Agent fee: 750 € x 4 lei / € = 3,000 lei
- RON value of the withholdings calculated as per the exchange rate valid when the plant undertook the obligation: 750 € x 3.85 lei / € = 2,887.5 lei.
- Unfavorable currency difference: 3,000 lei – 2,887.5 lei = 112.5 lei

%	=	411 „Customers” (plant)	3,000	
401 „Suppliers” (plant)				2,887.5
665 „Foreign exchange losses”				112.5

7. Payment of the amount of 14,250 € to the plant

a) RON value upon invoicing: 14,250 € x 3.85 lei = 54,862.5 lei

b) RON value upon payment: 14,250 € x 4.05 lei = 57,712.5 lei

Unfavorable currency difference (b – a): 2,850 lei

%	=	5124 „Cash at bank in foreign currencies”	57,712.5	
401 „Suppliers” (plant)			54,862.5	
665 „Foreign exchange losses”				2,850

8. Concomitantly, the plant pays the amount owed as VAT

401 „Suppliers” (plant) = 5124 „Cash at bank in foreign currencies” 10,972.5

The main conclusion which may be drawn related to the two forms of agency for exterior trade is that using a mandate contract, SCE might avoid “locking up” on short term funds for the payment of the value added tax.

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