

VAT AFFERENT TO INTRA-COMMUNITARIAN ACQUISITION, A NEW COMPONENT OF VAT SYSTEM FROM ROMANIA

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Our country's adhesion to European Union brought numerous new specific elements to Romanian fiscal policy and accountancy. Among these, one extremely important is represented by the appearance of new operations in the value added tax sphere, respective of intra-communitarian deliveries and acquisitions operations.

The present study will try to emphasize the most important aspects concerning fiscal and accounting treatments afferent to value added tax for intra-communitarian acquisition operations.

Key words: intra-communitarian acquisition, registration with VAT purpose, intra-communitarian acquisition place, reversed taxing.

Concurrent to Romania's adhesion to European structures, certain legislative changes appeared in what the trade with EU member states is concerned. Thus, in what the imports from EU member states are concerned, these received a new name, the one of *intra-communitarian acquisition*. These operations refer both to goods with communitarian origin character (meaning those who were produced in an EU member state country) as well as those that were produced in a tertiary state (for instance USA, Japan), but to whom free circulation in EU was given, moment when the customs taxes were paid and it obtained communitarian character.

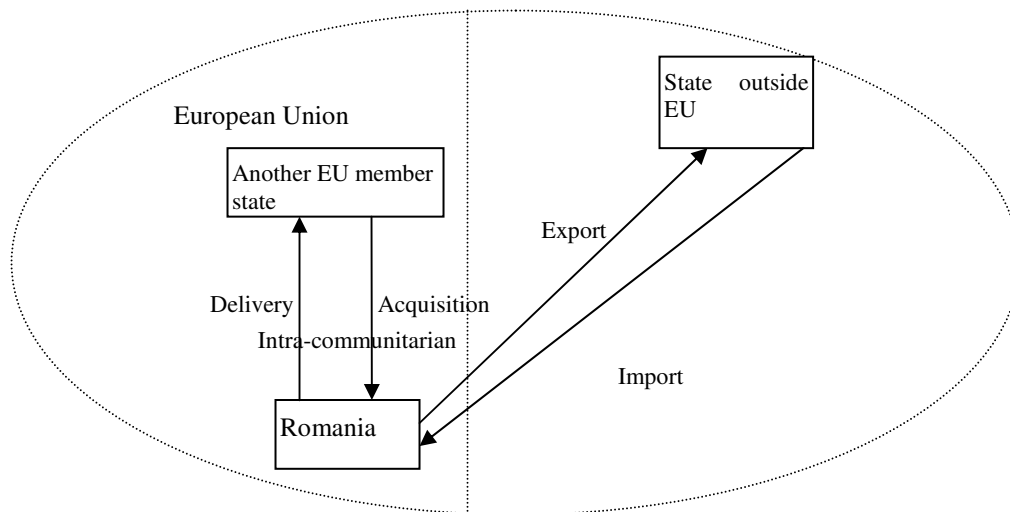


Fig.1. Romanian foreign trade's reorganization in the frame of adhesion to EU

Fiscal elements concerning the VAT afferent to intra-communitarian acquisitions

The most important consequences brought by our country's adhesion to EU, consequences with direct effect upon VAT regime applicable to Romania, are represented by:

- the relaxation of customs formalities afferent to economic relations among taxable entities that belong to different member states;

- operations generated by trade activity between EU member states are split, in VAT purposes, in two operations:
- intra-communitarian deliveries;
- intra-communitarian acquisition;
- reversed tax principle appliance, that requires the tax effectuation in the destination member state.

It is considered intra-communitarian acquisition the obtaining of the right to dispose, as owner, of corporal mobile goods dispatched or transported to the destination indicated by the purchaser, by the supplier or by another person in the supplier's or purchaser's account, by a member state other than the departure of the goods' transport or dispatch place.

Registration in VAT purposes

The importance of correct and on time registration in VAT purposes and of exact identification of the persons obliged to register in VAT purposes is more evident in the frame of intra-communitarian transactions.

The code for registration in VAT purposes represents the code given by competent authorities from Romania to persons that have the obligation to register or to have a registration similar code given by competent authorities from another member state. The VAT code is a crucial instrument for intra-communitarian transactions' control by the quarterly "reviewing declaration", compulsory by VAT information exchange system, the VIES that allows a crossed checking for intra-communitarian acquisitions. Therefore, when an intra-communitarian delivery is reported in Romania, it will be possible to check the supplier that has reported the intra-communitarian delivery, respective whether it has a valid number given in VAT purposes in his own member state and whether the operation is declared in the respective state.

According to Fiscal Code, in Romania, the taxable entity that is not registered and does not have the obligation to register and the juridical non-taxable entity that intends to perform an intra-communitarian acquisition in Romania, has the obligation of asking for registering in VAT purposes, before the intra-communitarian acquisition's performance, if the value of that intra-communitarian acquisition surpasses the level for intra-communitarian acquisitions in the calendar year when the intra-communitarian acquisition takes place. The ceiling for intra-communitarian acquisitions is of 10.000 Euro. Also, the fiscal organ may register by fact an obliged person, if this person does not ask for benevolent registration; this registration may be cancelled afterwards if the intra-communitarian acquisition's value does not surpass the mentioned level.

For the intra-communitarian acquisitions of new means of transport effectuate by persons that are not registered in VAT purposes, the purchaser does not have to register according to 153¹ article for intra-communitarian acquisition, but it will deposit a special VAT declaration for tax payment. The same procedure is applied for intra-communitarian acquisition of excises products realized by taxable entities and non-taxable juridical persons, not registered in VAT purposes.

The intra-communitarian acquisition's place

In what the intra-communitarian acquisition's place is concerned, it can be represented by:

- the place where goods can be found in the moment when the expedition or transport of the goods takes place;
- the member state that issued the registration code if a registration code is transmitted in VAT purposes, issued by another state than the one where the acquisition takes place.

It is important to be mentioned that, if the intra-communitarian acquisition was submitted to VAT in the member state where the transport ends also, but not in the member state that communicated a VAT number too, the tax basis is reduced according to the member state that communicated a VAT number.

For a better understanding, there will be presented in what follows three examples where a series of possible situations generated by intra-communitarian acquisition territory is emphasized.

Case 1

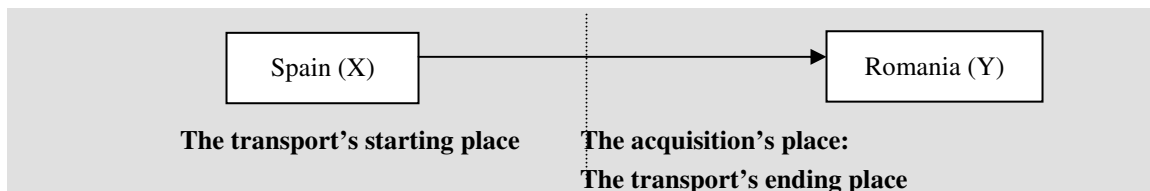


Fig.2. Intra-communitarian acquisition Romania-Spain

In the present example it is considered that the X firm is of Spanish origin, and the Y one Romanian. Romania realizes therefore an intra-communitarian goods acquisition, the starting and the delivery transport's place being Spain. The intra-communitarian goods acquisition's place is Romania, forasmuch, according to 132 article (1st) paragraph from the Fiscal Code, the intra-communitarian acquisition's place is the one where the goods are found in the moment when the transport ends.

Case 2

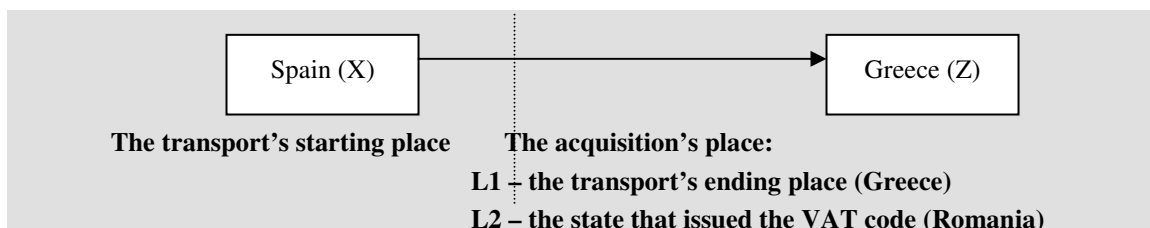


Fig.3. Intra-communitarian acquisition Greece-Spain

In the example presented above, Z, Romanian origin person, communicates to X its VAT code issued in Romania, not yet registered in Greece, intra-communitarian acquisition being therefore submitted to VAT both in Greece, as place where the transport concludes, and in Romania, as member state where the Vat code was communicated. But, according to Fiscal Code, it follows that the tax basis to be reduced as appropriate.

Case 3

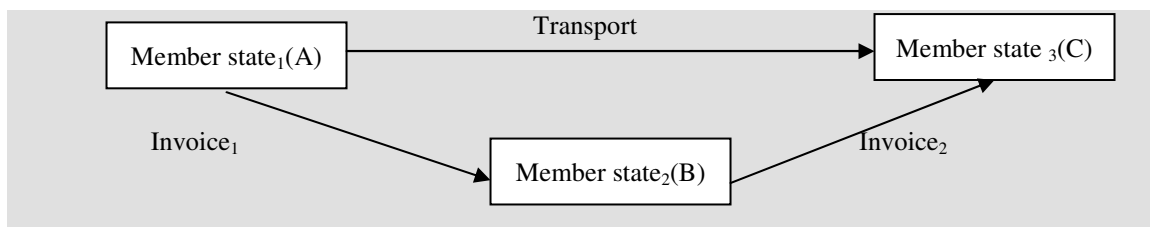


Fig.4. Triangle operation

It is noticed that it deals with the triangle operation where A is the supplier, B is the purchaser - re-seller and C is the delivery's final beneficiary.

In this above presented example three taxable entities are emphasized from three different member states, as follows: in the member state 1 (MS 1), A represents the supplier, in the member state 2 (MS 2), B represents the purchaser that re-sells and in the member state 3 (MS 3), meaning Romania, C represents the final beneficiary. As it can be noticed, two sales take place, the first sale is made by A in B's favor, and the second is made by B to C, in other words, the goods acquisition is realized by SM 2 for a subsequent delivery on Romania's territory. The transport takes place directly from the 1st member state in Romania. C will have to mention this acquisition in "intra-communitarian acquisition" from its VAT declaration and it has to apply the reversed taxing. Also, it has to rapport the local delivery in the reviewing declaration for intra-communitarian acquisitions in Romania.

Value added tax accountancy afferent to intra-communitarian acquisitions operations

The basic rule foresees that the VAT is paid in the destination state. The client, Romanian person registered in VAT purposes, will calculate and register the VAT by applying the reversed taxing mechanism. The registered person is obliged to communicate the supplier's the registration code and to deposit special VAT

declaration (the form 301). Therefore, the Romanian person will register the VAT afferent to intra-communitarian acquisition, both as collective and deductive VAT in the same declaration. An effective VAT payment will not be realized towards fiscal organs.

In special cases, more exactly when the invoice was not issued by the supplier up to the 15th of the month following to tax generating fact a self-invoice is issued by purchaser.

In what the foreign currency exchange is concerned, we mention that for determining the lei value of VAT afferent to intra-communitarian acquisitions, the exchange rate communicated by National Bank of Romania will be used, by means of which the deductions from the dates will be realized:

- a) extern invoice issuing, if the invoice was issued the latest on the 15th of the month following the producing of the generator fact (usually, delivery) or
- b) self-invoice issuing, meaning the 15th of the month following the month when the generator aspect intervened, in the situation when the intra-communitarian partner has not issued the invoice up to that date.

In what follows, few examples accountancy operations of intra-communitarian acquisitions will be presented:

Case I

S.C. „Y” S.A., a VAT taxable society from Romania purchases from “X” society from Spain, a VAT taxable society, raw material in value of 8.000 Euro, at an exchange rate of 3,6 lei/Euro:

<i>Raw materials</i>	=	<i>Suppliers</i>	28.800 lei
<i>Input VAT</i>	=	<i>Output VAT</i>	5.472 lei

Case II

S.C. „V” S.A., a VAT non-taxable society from Romania purchases from “X” society from Spain, a VAT taxable society, raw material in value of 5.000 Euro, at an exchange rate of 3,6 lei/Euro. In this situation, the society from Spain will issue an invoice that includes also the VAT (16%):

<i>Raw materials</i>	=	<i>Suppliers</i>	20.880 lei
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Case III

S.C. „P” S.A., a VAT non-taxable society from Romania purchases from “X” society from Spain, a VAT taxable society, raw material in value of 12.000 Euro, at an exchange rate of 3,6 lei/Euro. Because the acquisition surpasses the 10.000 Euro level, S.C. „P” S.A. has to register as VAT taxable for intra-communitarian acquisition and has to pay the VAT afferent to this transaction through special declaration:

<i>Raw materials</i>	=	<i>Suppliers</i>	43.200 lei
<i>Raw materials</i>	=	<i>VAT payable</i>	8.208 lei

Case IV

S.C. „Q” S.A., a VAT non-taxable society from Romania, but registered in VAT purposes for intra-communitarian acquisitions in Italy, purchases from “X” society from Spain, a VAT taxable society, raw material in value of 1.000 Euro, at an exchange rate of 3,6 lei/Euro. The customer is registered for intra-communitarian acquisitions and communicates this code to the supplier. SC “Q” S.A. makes an intra-communitarian acquisition taxable in Italy, for which he pays VAT based on special VAT declaration of the Italian state (VAT - 20%):

<i>Raw materials</i>	=	<i>Suppliers</i>	3.600 lei
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<i>Raw materials</i>	=	<i>Other taxes and similar liabilities (VAT payable)</i>	<i>720 lei</i>
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Other aspects concerning the intra-communitarian acquisitions

Intra-communitarian acquisitions will be enclosed in a reviewing declaration that will have to be handed in quarterly by firms registered with VAT purposes. The information from these reviewing declarations are transferred to VIES (VAT International Exchange System represents an electronic system that controls goods movement inside EU) and therefore the Member States may realize the checking of the realized operations. Fore instance, when an intra-communitarian acquisition in Romania is reported, the supplier that reported the intra-communitarian delivery is possible to be checked, respective whether it has a valuable number given in VAT purposes in its Member State and if the operation is declared in the respective state.

The elimination of customs formalities imposed the implementation of statistic system INTRASTAT, that supposes the filling in of Intrastat statistic declarations, a simplified variant of customs declarations filled in prior to Romania adhesion's to EU date. This statistic system was created and developed for collecting information directly from the firms that realizes trade activities with EU member states and it is functional from the 1st of January 1993 based on settlements that are applicable for all EU states.

The obligation for supplying statistic Intrastat data belongs to all economic operators that fulfill simultaneously the following conditions:

- are registered in VAT purposes, according to 153 article from Fiscal Code;
- realizes trade with goods from other EU member states;
- the turnover realized during the last 12 months, apart on the fluxes of introductions and dispatches surpasses a certain statistic threshold, that for introductions (intra-communitarian acquisitions) is of 300.000; (for intra-communitarian deliveries is 900.000).

The obligation of depositing Intrastat statistic declarations revives to economic operators that, even though have not reached the statistic threshold of excluding in anterior year (N-1), during the present year (N) they realize this thing. The economic operator will begin reporting statistic data starting with the month when it has reached/surpassed the exclusion threshold (for the previous months they do not report).

The economic agents that have the obligation of transmitting a "VAT Special Declaration" and that purchases goods from other EU member states, whose annual value is superior to statistic threshold, are, also, obliged to transmit the Intrastat declaration.

Intrastat Statistic Declaration (ISD) is monthly transmitted, in electronic form towards the NATIONAL INSTITUTE OF STATISTICS (NIS), until the 15th of every month (for instance: for the intra-communitarian acquisitions from January, ISD is transmitted until the 15th of February, the latest).

Under the conditions that for a certain period of time, an economic operator has not realized a transaction concerning goods movements for which is obliged to transmit ISD, then he should transmit to NIS a "NULL" declaration. This indicates the fact that the economic operator has not forgot to transmit the declaration and it will not be considered as non-respondent and the legal fines will not be applied.

The transactions that should be declared are the following:

- commercial transactions with goods that involve propriety transfer and are intended to utilization, consumption, investment or re-sale;
- movements of goods from one EU member state to another, without property transfer (for instance supply transfers, movements of goods before and after the processing, etc.);
- goods recasting;
- specific movements of goods.

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