

REASONS ABOUT THE CONCILIATION OF NET ACCOUNTING RESULT WITH FISCALITY

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The determination of the result of fiscal exercise supposes the utilization of accounting information just like they are offered by financial situations elaborated at the end of the yearly financial exercise. The net accounting result is adjusted such as Fiscal Code asks to be , on the account of non-deductible fiscally expenses and of scot free incomes. In this context the harmonization of fiscal settlements with the accounting ones supposes the joining of knowledge and techniques specific to these two domains.

The accounting information lies at the basis of the establishing the net accounting result and, finally, of the fiscal result. The net accounting result represents the difference between incomes and expenses at the end of financial exercise, inclusively the expenses with the taxbenefit , actually, represents the final balance of the account of benefit and loses.

Fiscal law does not totally know the expenses that sanctioned the accounting result , so that this will be adjusted according to the fiscal law with so- called non-deductible expenses and with untaxed incomes. In this context contability is a source of information for fiscality , and on the other side, these two have on their basis different principles and rules.

Each payer, juridical persons, but also authorized physical persons, elaborate financial situations and fiscal declarations , more than that, they are obliged by the operative legislation for those two domains. Thus, according to the point 12 of Methodological norms of application of Law no. 571/ 2003 regarding Fiscal Code, approved by GovernmentDecisionno. 44/ 2004,`` incomes and expenses that are considered in the establishing the untaxed benefit are those registered in contability according to the accounting settlements stipulated in Contability`sLawno. 82 / 1991, republished , with further modifications and completions , as well as any other elements similar to incomes and expenses , from which are deduced untaxed incomes and are added non-deductible expenses, according to the stipulations of article 21 of Fiscal Code``.

The basis of this relation is bound up directly with the calculation of taxed benefit , as taxed basis for tax benefit. As it is known the legislation that correspond to tax benefit , as well as in general, modifies itself at short periods of time, while the accounting settlements have a more reduced dynamics.

As fiscal legislation differs in simple adjustments from the accounting one , the instrument of adjustment – conciliation is fiscal declaration , by which accounting result is adjusted to the level of fiscal law` s demands.

Contability, on its turn, offers a conciliation solution between those two results by the application of IAS 12 – Tax benefit. This norm presents the modality of reconciliation between accounting benefit and the fiscal one , the used instrument being the tax on adjourned benefit , also for intermediary reports IAS 34 is applied –Intermediaryfinancial report.

It is known that accounting result is determined by closing the incomes and expenses accounts , as a result of recognitions in the exercise`s result according to the operative accounting settlements.

But as a rule, fiscal result differs from the accounting one and in these cases for establishing the tax benefit it is necessary to process the information from the accounting evidence by elaborating an account of fiscal evidence in which will be included all the adjustments made on the accounting result in establishing the tax benefit and inclusively of owed tax benefit.

For establishing the adjourned tax benefit , the economic agent has to recognize a credit or a debt, in conditions in which it is possible that the retrieving or the discount of the accounting value of a debt to determine the effectuation of some bigger or less future payments regarding the current tax benefit , than it would normally be their value if such a retrieving or discount would not have fiscal consequences.

The conciliation contability – fiscality in the context of this standard supposes a certain treatment regarding the bodily and non-bodily immobilizations , financial immobilizations, stocks, depreciations and provisions, own capitals , interest expenses, incomes from the rate of exchange differences, registered in the contability of current tax benefit and of the adjourned one and some others of the same kind bounded up with the active and passive patrimonial entities.

The main aim of this scientific approach in this domain is to discover and to delimitate the generating connections of organizatorical potential and of efficiency between taxes that form the actual fiscal system and the connections between the components of fiscal system and between this and payers.

We consider that a special importance in the adjustment of accounting result , has the interpretation of non-deductible and partly non-deductible expenses. Thus, the protocol expenses are deductive according to a quota of 2% applied upon the difference that results from the total of taxed incomes and the total of the expenses added to taxed incomes, others than the protocol expenses and expenses with tax benefit , expenses on official trip pays accorded to employers for official trips in Romania and abroad , it is deductive according to a quota of 2,5 times the legal level established for public situations. Social expenses are deductive according to a quota of 2 % applied on the value of expenses with staff salaries , perrisabilities, in the bounds established by the speciality organs of central administration, expenses representing meal tickets, accorded by employers, are deductive depending on the limit established by annual budgetary law.

Also, the made expenses , in the name of an employee to the schemes of optional pensions , in the limit of a sum representing the equivalent in RON of 200 EURO in a fiscal year for each participant , expenses with the premiums of voluntary health insurance , are deductive in the limit of a sum representing the equivalent in RON of 200 EURO in a fiscal year for each participant.

Other expensive partially deductible are those for functioning , entertaining and repairing of the job dwellings, expenses of functioning, entertaining and repairing an added premises in the own dwelling of a physical person, used for personal purpose, deductive in the limit that corresponds to the surfaces put at the society` s disposal in the base of contracts made between parts, expenses of functioning, entertaining and repairing of the cars used by the leaders and managers of juridical persons , deductive reduced at the most one car to a physical person with such responsibilities.

More expenses are not deductive in their totality as registered expenses and which sanctioned the result of the exercise, such as expenses on tax benefit , inclusively those representing differences from previous years or from last year, as well as paid taxes abroad.

Are non-deductible taxes with restraint at source paid in the name of physical and juridical persons which are not resident for the incomes realized in Romania. Expenses on adjourned tax profit , registered by payer , are also non- deductive.

Expenses with the goods as stocks established absent in financial administration or degraded and non-imputable , inclusively the tax on corresponding added value , expense with the non-repaid value of bodily actives which are not in the administration or are destroyed, for which have not been made insurance contracts , also it is not a deductive fiscally expense , inclusively the tax on corresponding added value. The expense with the non-repaid value of bodily actives which are absent in administration or destroyed , that surpluses to the retrieved value on the basis of insurance contracts that were made, inclusively the tax on corresponding added value, depending on the case, it is not deductive fiscally.

Expenses representing losses of value of participation titles , as a result of the social capital` s value reduction at the commercial society at which are owned the titles or as a result of quotation` s modification on exchanging market ,are not deductive expenses at the calculation of taxed benefit , because beforehandthey had been deductive and thus the deductivity would double and fiscal result would be falsified. The expenses representing the value of participation titles, transactionedor cessioned , do not come under the incidence of these stipulations.

In the case of sales of the participation titles , taxedbenefit is determined as difference between the value obtained from the sale and the nominal value in case of 1st sale or the acquisition price or fiscal value defined according to art. 27 of Fiscal Code.

At the removal from financial administration of the participation titles it can be used one of the methods used for removal from financial administration of the stocks.

In order to deduct the expenses with the services of management, consulting , assistance or other services it has to be accomplished in the same time moreconditions , namely, services have to be efficiently performed, to be executed on the base of a contract which to contain data concerning the performatants, the execution dates , the explanation of made services, as well as the prices, respectively the total value of the contract and the separation of this kind of expenses to be made on the whole period of contract progress or on the period of realization of contract` s objective ; the effective performance of services is justified by works situations , reports reception, work reports, market studies or any other corresponding materials.

For the services of management, consulting and technical assistance performed by those persons that are not resident , but are affiliated to payer, at the analysis of transaction for establishingthe expenses` deductivity , we have to refer to the involved parts , to the nature of performed services, to the recognition elements of expenses and incomes on the basis of explanatory documents which to certify the performance of these services.

Other expenses, such as those with interest and with exchanging differences or those with repayment suppose a more special treatment and Fiscal Code gives the proper attention to these expenses, namely: expenses with interest are totally deductible in case in which the capital obligation extent is less or equal to three. The capital obligation extent is established as report between the borrowed capital with term of repayment after an year and own capital, as average of the values extant at the beginning of the year and at the end of the period for which is established the tax benefit. By borrowed capital we understand all the credits and loans with term of repayment after an year.

If the capital obligation extent is above three, the expenses with interest and with net lose from the currency differences are not deductive.

In the case in which expenses with currency differences of the payer outrun the incomes from currency differences, this difference will be considered as an expense with interest.

For the deduction of expenses with currency differences are taken into considerations those corresponding to credits that compete for establishing the capital obligation extent.

In the case of credits obtained from other states , the deductive interests are limited to the level of reference interest of National Romanian Bank , adequate to the last month of the quarter, for credits in RON and the level of rate interest of 9 % for credits in foreign currency.

The deduction of repayment expenses is limited depending on repayment system.

Expenses adequate to acquisition, producing, building, installing or bettering of repaid fixed means are recovering from fiscal viewpointby the deduction of repayment.

The deduction of expenses with provisions` setting up supposes a consideration from two parts, namely, firstly as a deductive expense or a non-deductive one for the part that does not respectthe deduction conditions and secondly are considered as reserves for the protected objective.

Expenses with the added value tax for the givenfrees or for sales under the market price are not deductive and in the same time it puts a special issue from fiscal viewpoint, namely , the added value tax is a consumption tax that is not included into the goods` price , but it only consorts it ,

and still the means of taxes` administration encroach upon the general procedures and rules specific to some well – individualized taxes.

The consumption taxes are now included into the goods` price , an abnormality at least as significant as the exemption from added value taxes without a deduction right , which also is included into prices although the general rule does not suppose that.

The adjustment of net accounting result with the stipulations of fiscal laws represents one of the issues of conciliation between contability and fiscality, a large enough problem regarding the proportion of the operations specific to payers , but also to fiscal organs bound to the elaboration of fiscal declaration regarding the tax benefit and to their processing and control.

The relation contability – fiscality would be simpler and easier to conciliate if the fiscal legislation would be simpler and would prove a bigger independence than the accounting evidence.

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