

ACCOUNTING AND FISCAL TREATMENTS SPECIFIC FOR THE LENDING OF POPULATION THROUGH PAWNSHOPS

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Abstract:

Considering the fact that in recent years, due to economic conditions in our country, lending to households through pawnshops experienced significant growth, in the next article we tried to highlight, both in terms of tax and accounting, the activity of these businesses. Thus, we have presented the possibilities that a pawnshop has in choosing VAT regime, either normal or used goods regime, and ending the paper by presenting the accounting involved in the work of pawnshops.

Keywords:

1. Introduction

According to Law no. 93/2009 on banking financial institutions, with subsequent amendments pawnshops are classified as non-bank financial institutions for which Art. 6 Para 1 requires to be established as joint stock companies. But the same law establishes two exceptions to this rule. As far as we are concerned we are interested in one of these exceptions, namely that contained in Art. 37, that the pawn lending may work under the following conditions: entry in the register, organization and functioning according to Law no. 31/1990 on trading companies, republished, with subsequent amendments and not least the lending activity is limited to loans with collateral receipt of goods.

From the legal point of view (Civil Code art. 2480-2481) **pawn** (collateral) is that real right contract born of accessory by its creditor that the debtor submits a mobile work to guarantee debt. It is a real guarantee, performing the same function as the mortgage, except that always has as object movable property entrusting the creditor or a third party.

Accounting peculiarities of pawnshops are due in particular to the way pawn business laws are interpreted.

Our concern with pawnshops focuses in this paper on two coordinates, and namely:

1. what are the fiscal rules specific to pawnshops
- and
2. what are the specific accounting treatments for the lending of the population through these non-banking financial institutions

2. Fiscal rules specific to pawnshops

Under the legislation (Fiscal Code art. 147) the taxable person carrying out or who will carry out operations which give deduction rights, as well as operations which do not give deduction rights are called **combined taxable persons**. The person who performs both operations for which it does not have the quality of taxable person, as well as operations for which it is a taxable person is called **partially taxable person**.

In view of art. 141 Para. (2). a) section 1) of the Tax Code that **pawn loans** are exempt transactions, it can be concluded that pawnshops are **combined taxable persons** who exercise the right to deduct under Article 147 of the Tax Code.

Legal entities analyzed by us, namely pawnshops registered for VAT, can use the following modes of application of the value added tax:

- 1) *Normal regime of the value added tax;*
- 2) *The second hand goods scheme under Article 152 ^ 2 has to apply VAT only to the profit margin.*

Second hand goods are considered works of art, collectors' items and antiques as well as tangible goods that can be reused in the state in which they are or after carrying out repairs. With the entry into force of amendments to the Tax Code (01.03.2011) the following were **excluded from the category of second - hand goods**: *gold, silver and platinum* that can be used as feedstock for the production of other goods, either pure or alloyed with other and metals in the form of bars, plates, ingots, powder, foil, sheet, tube, wire or otherwise, investment gold as defined in art. 152 ^ 3 Para. (1) of the Tax Code, *silver or platinum coins* which do not

constitute the purpose of art collectors in the sense of art. 152 ^ 2 Para. (1). b) of the Fiscal Code *residue of old objects made of precious metals* recovered for melting and reused as raw materials and semi-precious stones and pearls, whether or not cut, crushed along the fiber, graded and polished but not wired mounted or set, which can be used to produce classic and fancy jewelry, goldsmiths 'and silversmiths' items and the like, *old goods repaired or restored* so that they can be distinguished from similar new goods, *old goods before resale* undergoing a such a transformation that resale is not possible to identify any common initial state of acquisition, *goods consumed on first use, goods that can not be reused in any way.*

For the reselling taxable person to apply the special taxation of second hand property, or to charge such goods only to the profit margin, certain conditions must be fulfilled according to Article 152 ^ 2 Para. (2), such as goods must have been purchased within the Community (from non-taxable persons, taxable persons, small enterprises if the purchase relates to capital goods and from a reselling taxable person, in so far as the supply was subject to the special tax).

Through the conditions laid down by law, pawn shops have some additional legal obligations embodied in: [6]

~ to keep a log for special purchases and a special sales' journal to enroll all goods under the special regime;

~to keep a compared record to establish the total tax base for deliveries in the fiscal period and, if applicable, the fee collected;

~ to keep separate accounts for stocks of goods under the special regime;

~ to apply special arrangements for all second-hand goods;

~ to set collected tax under the special scheme for each tax period in which it has to submit tax return;

~ to keep records of transactions for which the special scheme applies;

~ to keep separate records for operations under each regime where both operations are carried out under the normal tax regime and the special regime;

~ to notify the tax authority for application of the special regime for works of art, collectors' items and antiques imported, a mode automatically remaining in effect until December 31 of the second calendar year following the option exercise.

Under current rules, the taxable person reselling that performs both operations under normal tax regime and special arrangements must keep separate records for each operation under regime and establish the tax collected under the special scheme for each fiscal period which he must submit the tax return.

3. Specific accounting treatments for the lending of the population through pawnshops

In the endeavor of evoking specific accounting treatments for the lending of the population through pawnshops we will present the following situation:

A pawnshop contract with an individual, owns a gold bracelet 7 grams, on which grants a loan of £ 5,000 over a period of 30 days. For this the individual is charged a fee of 0.6% per day.

In the bookkeeping of the pawnshop the following accounting records occur

➤ Awarding the loan:

2678	=	5311	5.000
„Other receivables”		„The register in lei”	

➤ In the same time takes place the off-balance sheet recording of the asset received under the pawn:

8033		5.000
„Assets held in storage or custody”		

At the time of the prompt the following situations may occur:

I. The natural person repays the loan value:

5311	=	%	6.116
„The register in lei”		2678	5.000
		„Other receivables”	
		704	900
		„Income from work performed and services rendered”	
		4427	216
		„Collected VAT”	

The fee charged is calculated as follows: $5.000 \text{ lei} \times 0,6\% \times 30 \text{ days} = 900 \text{ lei}$

The fee charged by the pawnshop enters the tax base of VAT and therefore VAT collected = $900 \text{ lei} \times 24\% = 216$

~ Simultaneously is highlighted the removal from custody of assets:

8033		5.000
	„Assets held in storage or custody”	

II. The individual requests the extension with 15 days of the refund term of the loan:

5311		%	<u>6.350</u>
„The register in lei”	=	2678	5.000
		„Other receivables”	
		704	1.350
		„Income from work performed and services rendered”	

The fee charged is calculated as follows: $5.000 \text{ lei} \times 0,6\% \times 45 \text{ days} = 1.350 \text{ lei}$

~ Simultaneously is highlighted the removal from custody of assets:

8033		5.000
	„Assets held in storage or custody”	

III. Retention of loan fee

➤ Provision of the loan minus the loan fee

2678		5311	4.100
„Other receivables”	=	„The register in lei”	

The commission, as we have seen in previous cases has a value of 900 lei: $5.000 \text{ lei} \times 0,6\% \times 30 \text{ days} = 900 \text{ lei}$

Thus the sum that must be paid is $5.000 \text{ lei} - 900 \text{ lei} = 4.100 \text{ lei}$

~ Simultaneously, the registration of the off-balance sheet total value of the pledged asset occurs:

8033		5.000
„Assets held in storage or custody”		

➤ At the deadline, the owner of the jewelry returns the borrowed amount plus commission:

5311		%	<u>6.350</u>
„The register in lei”	=	2678	4.100
		„Other receivables”	
		704	900
		„Income from work performed and services rendered”	
		462	900
		„Various creditors”	

~ Simultaneously is highlighted the removal from custody of assets:

8033		5.000
	„Assets held in storage or custody”	

➤ Returning the commission to the jewelry owner:

462	=	5311	900
„Various creditors”		„The register in lei”	

IV. *The individual does not return the loan at maturity and thus the pawn shop decides to selling the jewelry to:*

- Entry into administration of the jewelry to be sold:

In this case there is a separate registration mark-which is 50% of the value of the property and registration of value added tax which is calculated on the amount due in the sale of the property, given that gold jewelry is not covered by the special charge of second hand goods:

371	=	%	<u>9.300</u>
„Merchandise”		2678	5.000
		„Other receivables”	
		378	2.500
		„Differences in prices of goods”	
		4428	1.800
		„VAT not due in”	

- ❖ If the object left as collateral to receive the loan may be included in the category of used goods then VAT should be calculated only on the value of trade margins.

~ Simultaneously is highlighted the removal from custody of assets:

8033	5.000
„Assets held in storage or custody”	

- Selling the jewelry towards third persons:

5311	=	%	<u>9.300</u>
„The register in lei”		707	7.500
		„Revenue from selling goods”	
		4427	
		„VAT collected”	1.800

- discharge of the goods sold:

%	=	371	<u>9.300</u>
607		„Merchandise”	5.000
„Expenditure on goods”			
378			2.500
„Differences in prices of goods”			
4428			1.800
„VAT not due in”			

In addition to the above records, in any of the cases presented, during the period are operated the registration costs for the pawnshop. At the end of the period are closed the accounts of revenues and expenses establishing the result and determining the income on profit due to the state budget.

4. Conclusions

The risk assumed by the pawnshop given by the delayed selling of the good as well as the risk of not cashing the commission due to the loan is covered by the significant difference between the evaluated value of the good (bigger) and the amount of money lent (smaller).

If the property owner is not present on the due date to repay the loan and the fee due, the pawnshop becomes the owner of the asset that it can later use by sale. Thus pawn shops, besides the specific activity of lending can also undergo activities of consignment and retail.

To conclude, the risk assumed by the pawnshop given by the failure to receive the loan is covered by the value of the goods accepted as pawn as well as the existence of demand of those respective goods on the market.

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- [6]*** - *Law no. 93/2009 on non banking financial institutions*, with subsequent amendments;
- [7]*** - *Law 31/1990 on commercial companies*, with subsequent amendments;
- [8]*** - *Law 287/2009 concerning the Civil Code* with subsequent amendments;
- [9]***- *Law 571/2003 concerning the Fiscal Code*, with subsequent amendments;
- [10]*** - *Methodological standards of enforcing Law no. 571/2003 concerning the Fiscal Code*, with subsequent amendments;

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