

## FISCAL AND ACCOUNTANCY ASPECTS CONCERNING THE ECONOMIC ACTIVITY OF INTRA-COMMUNITARIAN GOODS TRANSPORT

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*As general type of activity, transport is framed in the vast category of services. However, from a fiscal point of view, transport services are treated as an exception, in comparison with the manner in which the services are approached, in general.*

*In the frame of the transport services, the intra-communitarian transport presents certain particularities. Therefore, the present paper holds forth the approach from a theoretical point of view of a series of fiscal aspects specific to economic operations of intra-communitarian goods transport, but also to study different practical examples in the purpose of presenting afferent fiscal and accountancy treatments.*

*Key words: intra-communitarian transport, performance place, person obliged to pay the VAT, accountancy.*

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It constitutes *intra-communitarian goods transport*<sup>546</sup> any type of goods, for which the departure and the arrival place are situated in two different states that belong to European Union. In the situation when during the intra-communitarian transport (between the departure and the arrival place) another tertiary state outside European Union is crossed over, the intra-communitarian goods transport quality is not affected.

### **1. Fiscal aspects concerning intra-communitarian goods transport**

The intra-communitarian goods transport is settled by article 133, paragraph (2), letter (c) from the Law no. 571/2003 concerning The Fiscal Code, with subsequent changes and completions and point 15 from the standards given for this article application, approved by H.G. 44/2004, with subsequent changes and completions. In synthesis, according to the present legislation<sup>547</sup>, by intra-communitarian goods transport we understand any goods transport for which:

- the departure and arrival place are situated in two different Member States – *properly intra-communitarian transport*; or
- the departure and arrival place are situated in the same Member State, but the transport is made in direct connection with an intra-communitarian goods transport – *national transport assimilated to intra-communitarian transport*.

The issue of the properly intra-communitarian goods transport will be dealt with in what follows.

**The place of the intra-communitarian goods transport performance** is considered to be the departure place of intra-communitarian goods transport<sup>548</sup>, meaning the point from where the transport operation starts. By exception, if the transport service is performed by a beneficiary that communicates a registration code with VAT purpose available in another Member State than the departure one, the performance place is represented by the Member State that issued the VAT code, in the basis of which the service was performed for the beneficiary.

<sup>546</sup> Persons transport presents a different fiscal regime.

<sup>547</sup> Article 133, paragraph (2), letter c) from Law no. 571/2003 concerning the Fiscal Code, with subsequent changes and completions and point 15 from the standards given for this article application, approved by H.G. 44/2004, with subsequent changes and completions.

<sup>548</sup> Article 133, paragraph (2), letter c), from The Fiscal Code.

If the client does not communicate this code the taxation place is in the Member State of goods departure, the transporter having the obligation of registering in the intra-communitarian transport departure Member State for the payment of the value added tax.

**The person obliged for VAT tax in Romania**, for which the services representing the intra-communitarian goods transport, is the performer<sup>549</sup>. By exception, if the performer is not established in Romania (even though he is registered in VAT purposes in Romania<sup>550</sup>) and the beneficiary is also registered in VAT purposes in Romania<sup>551</sup>, the person obliged to pay the VAT is the beneficiary.

In the case when the code communicated to transport firm is attributed by the Member State from where the goods departed (in this case the exception does not apply any longer), the taxing place is the departure place of the goods, and the person obliged to pay the VAT is the beneficiary by inverse taxation.

**VAT exemptions.** Under certain circumstances the goods transport may benefit from exemptions with deduction right, such as: goods transportation from a tertiary territory, with the condition that the value of this transport will be included in taxing basis of the imported goods; goods transport, direct connected to the exportation of these goods outside Community; goods transport that are placed in suspense customs regime<sup>552</sup>.

In the case of intra-communitarian goods transport, there are no VAT exemptions, but only a few exceptions: the transport of some non-communitarian goods found in external transit regime; intra-communitarian goods transport made towards and from the islands belonging to autonomous regions from Azores and Madeira; the transport afferent to an exportation.

In what follows the case when the performer of the transport services is established in Romania will be analyzed, but also the case when the beneficiary of the intra-communitarian goods transport is a person established in Romania.

Case 1. The performer is established in Romania

In this case the following particular situations may occur:

a) if the beneficiary is established and registered in VAT purposes in Romania, the performer will invoice with VAT any transport operation:

- that starts in Romania;
- that starts in another Member State and ends in Romania; or
- that starts and ends in another Member State.

b) if the beneficiary is established in Romania and registered in VAT purposes in another Member State communicating the VAT code from the respective state, the performer will invoice without VAT, the taxing being made in the other Member State;

c) if the beneficiary is established in Romania but he is not registered in VAT purposes, the performer will invoice with VAT for any transport operation that starts in Romania;

d) if the beneficiary is not established in Romania and he has not communicated any VAT code from another Member State, the performer will invoice with VAT any transport operation that starts in Romania;

e) if the beneficiary is not established in Romania and he communicates a VAT code from another Member State, the performer will invoice without VAT, the taxing being made in the other Member State.

**Case 2. The performer is established in another Member State**

In this case the following particular situations may occur:

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549 Article 150, paragraph (1), letter a), from The Fiscal Code.

550 According to article 153 paragraph (4), from The Fiscal Code settlements.

551 According to article 153 or 1531, from The Fiscal Code.

552 Popa Adriana-Florina, Popa Nicu, The excises and taxes settled by The Fiscal Code, CONTAPLUS Publish House, Bucharest, 2008.

- a) if the beneficiary is established and registered in VAT purposes in Romania, he will receive an invoice without VAT; both deductible and collective VAT will be registered in VAT deduction;
- b) if the beneficiary is established in Romania, but he is registered only for intra-communitarian acquisitions, he will deposit the special VAT deduction and he will owe VAT to the budget;
- c) if the beneficiary is established in Romania but communicates a VAT code form another Member State, the transport operation is not taxable in Romania, but in the other state;
- d) if the beneficiary is not registered in VAT purposes in Romania, he is not obliged to VAT payment afferent to intra-communitarian goods transport operation.

## 2. Aspects concerning the intra-communitarian goods transport operations' accountancy

A series of practical examples will be presented in order to underlie the intra-communitarian goods transport operation accountancy rules.

### 2.1. The reflection of intra-communitarian goods transport operation in Romanian performer's accountancy

**Example no. 1.** S.C. INTRACOM TRANSPORT S.R.L., established and registered in VAT purposes in Romania, transports goods from Romania to Spain, for MONDOSPANISH society from Spain, a society that does not communicate to Romanian transporter a registration code in VAT purposes available in Spain or in other Member State.

The fiscal treatment that will be applied for this case is the following:

According to general rule from The Fiscal Code, the intra-communitarian goods transport takes place in Romania, because the performance place is considered Romania and the beneficiary does not communicates to the performer a registration code. Therefore, the intra-communitarian goods transport is taxable in Romania.

The accountancy treatment that will be applied for this case is the following:

The invoice issued by the society from Romania will contain VAT, and the reflection of the services performance operation in S.C. INTRACOM TRANSPORT S.R.L. accountancy will be realized hereby:

$$\frac{4111 \text{ „Clients”}}{4427 \text{ „TVA collected”}} = \frac{704 \text{ „Incomes from executed works and performed services”}}{\%}$$

**Example no. 2.** S.C. INTRACOM TRANSPORT S.R.L., established and registered in VAT purposes in Romania, transports goods from Romania to Spain, for MONDOSPANISH society from Spain. The Spanish beneficiary provided for Romanian transporter its registration code for VAT purposes from Spain.

- The fiscal treatment that will be applied for this case is the following:

In this case, because the beneficiary society communicated its registration code for VAT purposes from Spain, the performance place will be considered Spain, the transporter's being applied the exception from the general rule. Therefore, the intra-communitarian goods transport is taxable in Spain.

- The accountancy treatment that will be applied for this case is the following:

The invoice issued by the society from Romania will not contain VAT, the Romanian transporter not having the obligation of invoicing with VAT, and the reflection of the intra-communitarian transport operation (operation not taxable in Romania) in S.C. INTRACOM TRANSPORT S.R.L. accountancy will be realized hereby, maintaining the deduction right according to article 126, paragraph (9) letter b) from The Fiscal Code:

$$\frac{4111 \text{ „Clients”}}{704 \text{ „Incomes from executed works and performed services”}} =$$

The Spanish beneficiary will proceed to inverse taxing, applying the VAT quota available in Spain, respective the one of 16%.

**Remark:** We make the specification that for this case, the transporter has to check the availability of the registration code in VAT purposes given by the beneficiary, using one of the methods presented in the O.M.F.P. no. 1706/2006, published in O.M. no. 894/02.11.2006.

The exception may extend for the situation where the beneficiary was registered in VAT purposes in Italy too and provided to the transporter the registration code in Italy. By applying this exception foreseen at the article 133 paragraph (2) letter c) from The Fiscal Code, the place of the intra-communitarian goods transport made by S.C. INTRACOM TRANSPORT S.R.L., would have been for this case Italy. Accordingly to this, the applicable VAT quota would have been 20% - the VAT quota afferent to the Italian state.

**Example no. 3.** S.C. INTRACOM TRANSPORT S.R.L., established and registered in VAT purposes in Romania, transports goods from Romania to Spain, for MONDOSPANISH society from Spain. The Spanish beneficiary is registered in VAT purposes both in Spain and Italy, but he provided to Romanian transporter its registration code for VAT purposes available in Italy.

- The fiscal treatment that will be applied for this case is the following:

In this case, because the beneficiary society communicated its registration code for VAT purposes from Italy, the performance place will be considered Italy, the transporter's being applied the exception from the general rule. Therefore, the intra-communitarian goods transport operation is taxable in Italy.

- The accountancy treatment that will be applied for this case is the following:

The invoice issued by the society from Romania will not contain VAT, and the reflection of the intra-communitarian transport operation (operation not taxable in Romania) in S.C. INTRACOM TRANSPORT S.R.L. accountancy will be realized hereby, maintaining the deduction right according to article 126, paragraph (9) letter b) from The Fiscal Code:

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4111 „Clients” = 704 „Incomes from executed works and performed services”

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**Example no. 4:** S.C. INTRATRANSPORT S.R.L., established and registered in VAT purposes in Romania, transports goods for an expedition house - S.C. TRANSFERROM S.R.L. – society established and registered in VAT purposes also in Romania. The goods are transported by a society from Italy in Romania. S.C. TRANSFERROM S.R.L. communicates to the transporter its registration code in VAT purposes available in Romania, code attributed therefore to another Member State than the one of transport's departure.

- The fiscal treatment that will be applied for this case will be the following:

Because the beneficiary society communicated its VAT code from Romania (the place of goods' arrival and not the departure one), the performance place will be considered Romania, the transporter's being applied the exception from the general rule. Therefore, the intra-communitarian goods transport operation is taxable in Romania.

- The accountancy treatment that will be applied for this case is the following:

The invoice issued by the transporting society will contain VAT (19%), and the reflection of the intra-communitarian transport operation in S.C. INTRATRANSPORT S.R.L. accountancy will be realized hereby:

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4111 „Clients” = %  
704 „Incomes from executed works and performed services”  
4427 „TVA collected”

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**Example no. 5:** S.C. INTRACOM TRANSPORT S.R.L., established and registered in VAT purposes in Romania, transports goods from Spain to Romania, for MONDOSPANISH society, person established and registered in VAT purposes in Spain. The beneficiary provided for Romanian transporter its registration code available in Spain.

- The fiscal treatment that will be applied for this case will be the following:

The place of departure of the intra-communitarian goods transport is Spain, and the arrival place is in Romania, and the beneficiary communicates its VAT registration code.

But, because the beneficiary from Spain provides the registration code in VAT purposes attributed in Spain – the Member State of goods transport departure, the exception from the rule will not be applied, the performance/taxation place being considered, according to the basic rule, the Member State of goods transport departure. The person who will be obliged to VAT tax payment is the beneficiary, by inverse taxing procedure.

## **2.2. The reflection of the intra-communitarian goods transport operation in Romanian beneficiary accountancy**

**Example no. 1.** The MONDOFRANCE society, established and registered in VAT purposes in France, transports goods from France to Romania, for ASCOROM S.R.L. society from Romania, society that does not communicate to the French transporter a registration code in VAT purposes available in Romania or in another Member State.

- The fiscal treatment that will be applied for this case will be the following:

According to the general rule of The Fiscal Code, the intra-communitarian goods transport takes place and it will be taxed in France, because the performance place is considered the departure place of goods, respective France, the beneficiary not communicating to the performer a registration code.

The accountancy treatment that will be applied for this case is the following:

The invoice issued by the society from France will contain VAT, and the reflection of the service performance operation in S.C. ASCOROM S.R.L. accountancy will be realized hereby:

$$\frac{624 \text{ „Expenses with transport of goods and staff”}}{4427 \text{ „VAT collected”}} = 401 \text{ “Suppliers”}$$

**Example no. 2.** The MONDOFRANCE society, established and registered in VAT purposes in France, transports goods from France to Romania, for ASCOROM S.R.L. society from Romania, society that communicates to the French transporter a registration code in VAT purposes available in Romania.

- The fiscal treatment that will be applied for this case will be the following:

In this case, because the beneficiary society communicated its VAT code available in Romania, the performance place will be considered Romania, and not France, the departure place. The transporter’s will be applied the exception from the general rule. Therefore, the intra-communitarian goods transport operation is taxable in Romania.

The performer will issue an invoice without VAT, and the beneficiary will submit the intra-communitarian goods transport operation to inverse taxation<sup>553</sup>.

The accountancy treatment that will be applied for this case is the following:

The beneficiary, S.C. ASCOROM S.R.L. will receive an invoice without VAT, but will highlight in accountancy both deductible and collective VAT, in the VAT deduction, on the basis of accountancy note:

$$4426 \text{ „VAT deductible”} = 4427 \text{ „VAT collected”}$$

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<sup>553</sup> According to obligation stipulated in article 150 paragraph (1) letter c), respective article 157 paragraph (2), from The Fiscal Code.

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