TAX AND ACCOUNTING RULES APPLICABLE TO VEHICLES WITH LIMITED TAXATION TREATMENT

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Abstract
In the context of the deep changes imposed by our country's integration into the European Union, it is well known that tax law has undergone substantial changes, especially in terms of value added tax. However, with the coming of the financial and economical crisis in Romania, the authorities have always been concerned with attracting additional amounts to the general consolidated budget, justification that contributed to the issue of legislative documents in order to limit the deduction of certain expenses incurred by entities not directly related to business performance, and the value added tax in respect thereof. Based on this consideration, in this paper we intend to address the accounting and tax implications that legislative changes applicable from May 1, 2009 [2], regarding the limitation of deduction right for vehicles, have on both the taxable income from a firm and on the cash assets, without omitting to analyze the changes affecting this sector since January 1, 2012 and thereafter on July 1, 2012. Therefore, the purpose of this paper concerns, on the one hand, the fiscal approach in terms of income tax and VAT for the purchase of vehicles (including leasing), fuel and operating, maintenance and repair costs thereof, and on the other hand, the accounting rules required for motor vehicles, owned or in use, subject to expense deduction limitation.

Keywords: vehicles/motor vehicles limited taxation treatment, VAT, non-deductible expenses, tax treatment, accounting rules

JEL Classification: M41

1. Brief history
In the context of fiscal changes required by Romania's accession to the Community area and of attracting additional funding to the general consolidated budget, from May 1, 2009, the tax rules for motor vehicles with no more than 9 passenger seats and a mass lower than 3,500 kg was amended, in the sense that the related value-added tax, both for the purchase of these vehicles (including intra-Community acquisitions and imports) and the fuel necessary for operation, became deductible [10], fuel costs, which in turn fell in the category of fully non deductible expenses in the calculation of income tax. Thus, in order not to give rise to interpretations, the regulation [10] (including implementing rules [8]) has expressly provided for categories of means of transport (motor vehicles) for which the value added tax continued to be deducted (called exceptions), namely:

- vehicles used exclusively for:
  - intervention/emergency;
  - repairs;
  - safety and security;
  - courier services;
  - transport of personnel to and from the place of work;
  - vehicles specially adapted to be used as camera trucks;
  - vehicles used by sales agents;
  - vehicles used by employment recruiters.

- vehicles used for paid passenger transport, including taxi services;

- vehicles used for provision of paid services, including:
  - rental to third parties;
  - training held by driving schools;
  - transmission of the use in a finance or operating lease agreement;

- vehicles used for commercial purposes, or for resale.

Initially, the tax amendment only covered the period May 1, 2009 – December 31, 2010, but it was extended for the fiscal year 2011 [7]. Thus, since January 1, 2012 [6] the legislation regarding VAT deduction for vehicles with no more than 9 passenger seats and a mass lower than 3,500 kg changed again, fortunately becoming more permissive. Therefore, it allowed economic operators, when calculating income tax, to deduct half of the fuel expenses incurred for...
the operation of vehicles (exceptions remained unchanged). However, simultaneously, for the same vehicles, the
deduction of 50% was also applied for the value added tax related to the acquisition of such vehicles, and in the same
time, the same rate of 50% was deducted from the tax on fuel purchases for their use (whether they were owned or in
use).

Just that recently (since July 1, 2012), as if trying to express more clearly the need for resources to the state
budget and the role of authoritarian decider, the Government has again amended the law on taxation in terms of income
tax and value added tax for vehicles with no more than 9 passenger seats and a mass lower than 3,500 kg. Thus, [5] the
deductibility rate remains at 50%, unchanged, both for the non-deductible/deductible expenses considered and for
VAT, but it also applies to vehicles in use, i.e. in financial leasing (therefore the number of exceptions decreases) and
to all vehicles not used exclusively in order to conduct the business for directly attributable expenditure per vehicle,
including those representing: repair, maintenance costs, costs of lubricants, spare parts, fuel expenses incurred for
operating the vehicle, local taxes, civil liability insurance for car owners, hull insurance, periodic technical inspections,
Romanian vignette etc. [4].

Also, in order to grant full deductibility in calculating net annual income, justifying the use of vehicles is based
on supporting documents and by drawing the roadmap, which must include at least the following information: the
category of vehicle used, the purpose and place of travel, mileage, fuel consumption rate per kilometer driven [4].
According to the regulations in force [4], the use of a vehicle for business purposes includes, but is not limited to: travel
within the country or abroad to customers/suppliers for prospecting the market, travel to locations where there are work
sites, to the bank, customs, post offices, tax authorities, vehicle use by managers in the exercise of service, travel for
intervention, service, repair, use of test-drive vehicles by car dealers. The taxpayer is required to demonstrate that all
the legal requirements for granting deduction are complied with. In order to exercise the right of tax deduction, any
taxpayer must hold the documents required by law for tax deduction and to draw the roadmap that should contain
at least the following information: the category of vehicle used, the purpose and place of travel, mileage, fuel
consumption rate per kilometer driven.

Note that, from July 1, 2012, taxpayers applying the 50% limited deduction no longer have to prove the use of
vehicle for business purposes or for personal use with the roadmap [4]. In support of the above-mentioned, the
legislative amendments are synthetically shown in Table no. 1.

<table>
<thead>
<tr>
<th>No.</th>
<th>Time</th>
<th>Limitation of expense deduction in calculating income tax</th>
<th>VAT deduction limitation</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Before May 1, 2009</td>
<td>100% Operating costs (fuel, repairs, hull etc.).</td>
<td>100% Internal purchase, import, intra-Community purchase, lease, all operating costs.</td>
</tr>
<tr>
<td>2</td>
<td>05/01/2009 – 12/31/2011</td>
<td>0% Expenses on the fuel required to operate vehicles owned or in use.</td>
<td>0% Internal purchase, import, intra-Community purchase, expenses on the fuel required to operate vehicles.</td>
</tr>
<tr>
<td>3</td>
<td>01/01/2012 – 06/30/2012</td>
<td>50% Expenses on the fuel required to operate vehicles owned or in use.</td>
<td>50% Internal purchase, import, intra-Community purchase, expenses on the fuel required to operate vehicles.</td>
</tr>
<tr>
<td>4</td>
<td>07/01/2012 – present</td>
<td>50% Repair, maintenance costs, costs of lubricants, spare parts, local taxes, civil liability insurance for car owners, hull insurance, periodic technical inspections, Romanian vignette etc., fuel expenses incurred for operating the vehicle owned or in use that are not used exclusively in order to conduct the business.</td>
<td>50% Internal purchase, import, intra-Community purchase, financial leasing (interest, foreign exchange revaluation losses), repair, maintenance costs, costs of lubricants, spare parts, fuel expenses incurred for operating the vehicle, periodic technical inspections, Romanian vignette etc. for vehicles that are not used exclusively in order to conduct the business.</td>
</tr>
</tbody>
</table>
2. Implications of tax rules on the economic operators' activities and accounting

The implications that the tax rules had, since May 1, 2009, on taxpayers' cash flow are obvious, following the legislative amendments (tax rate and base) from Table no. 1, i.e. VAT and income tax owed to the state budget by those who purchased vehicles and fuel (excluding exceptions for freight vehicles, security, taxis, driving schools, etc.), amounts that during 05/01/2009 - 06/30/2012, were increased in direct proportion to fuel consumption and level of acquisitions. Compared to the current situation (i.e., after 01/07/2012) during 05/01/2009 - 06/30/2012, the expenses associated with the operation of vehicles and the rates related to procurement by financial lease remained unlimited, whether they were used or not exclusively for business purposes.

But now (after July 1, 2012), the 50% limitation also applies to procurement by lease and to all expenses related to vehicles owned or used by the taxpayer, if the vehicles are not used exclusively for business purposes. Therefore, from May1, 2009 the Romanian state (represented by the Government) directed taxpayers' investments to motor vehicles without which certain activities could not be carried out (freight transport, security, taxis, driving schools, etc.) or are the object of activity of economic operators, at the expense of purchases of cars (luxury most often) used primarily for personal purposes (many times these vehicles were owned by legal persons but used by individuals - managers - only benefiting the latter and actually being an extension of their property, even if the financial effort - purchase, fuel, insurance, repairs etc - was entirely borne by the legal person) [1]. From January 1, 2012, the Romanian state (also represented by the Government) seems to placate and increases the deduction right from 0% to 50%, but seems to completely forget that the limitation measure was intended to be used only during the economic crisis or, in other words, confirms once again the precarious situation of the national economy in economic crisis. After only six months, the same Government extends the limitation of 50% to all expenditure related to such vehicles and to procurement by lease. We believe that, although the latter measure seems cruel especially in that it hits the leasing and insurance companies (hull insurance especially), a proper demarcation is made between vehicles that are used exclusively for business (which deduction of 100%) and the other vehicles.

The application of the 50% limitation for establishing the non-deductible amount in determining the taxable profit is made after applying the limitation related to VAT, i.e. it is also practiced on the value added tax for which no deduction right was granted in terms of value added tax [4].

The tax rules have always influenced taxpayers' accounting. Therefore, you can find below, for each period, the implications that the tax rules had on the coverage of economic and financial operations related to vehicles with limited right of deduction [9]:

A. Period 05/01/2009 – 12/31/2011

Regarding the proper coverage of non-deductible expenses representing fuel expenses for the operation of vehicles with limited right of deduction, taxpayers could use an analytical for the account 6022 “Fuel expenditure”, in our case 6022.N “Non-deductible expenses on fuel” (upon commissioning), the record based on fuel purchase invoice is:

\[
\begin{align*}
\text{3022} & \text{“Fuel” (for stored fuel)} \\
\text{6022.N} & \text{“Fuel expenditure”} \\
\text{4426} & \text{“Input VAT”}
\end{align*}
\]

Analytical: Non-deductible expenses

\[
\begin{align*}
\text{3022} & \text{“Fuel” (for stored fuel)} \\
\text{6022.N} & \text{“Fuel expenditure”} \\
\text{4426} & \text{“Input VAT”}
\end{align*}
\]

\[
\begin{align*}
\text{= 401 “Suppliers”} & \text{ - with total amount of the invoice} \\
& \text{ - with the amount excluding VAT}
\end{align*}
\]

However, if the VAT on fuel is non-deductible, therefore unrecoverable fee, it was included in the cost of fuel, namely:

\[
\begin{align*}
\text{3022} & \text{“Fuel” (for stored fuel)} \\
\text{6022.N} & \text{“Fuel expenditure”} \\
\text{4426} & \text{“Input VAT”}
\end{align*}
\]

\[
\begin{align*}
\text{= 4426 “Input VAT”} & \text{ - with the amount of VAT from the fuel purchase invoice}
\end{align*}
\]

Reflecting the VAT related to the purchase of fuel in the flow of account 4426 “Input VAT”, even non-deductible, ensures its resumption in statement 394 “Information statement concerning deliveries / supplies and acquisitions made on national territory”.

In practice, fuel procurement is usually based on the tax receipt issued by electronic cash registers which, according to the regulations in force [9] – [3] is documentary evidence of entry of fuel costs in the taxpayer's accounts (after stamping and entering the buyer's name, tax code and registration number of the vehicle) and evidence of payment (annex to the cash register), being attached to the invoice received or to other evidence of fuel inventory inflow (travel order, expenses deduction sheet - approved by the person authorizing such expenditures). If the tax receipt is not accompanied by invoice (but by travel order and expenses deduction sheet), the entry of fuel purchase may be done directly (also including non-deductible VAT in compliance with the law), with no obligation to declare...
VAT under statement 394:

\[
\begin{align*}
3022 & \text{“Fuel” (for stored fuel)} \\
& \text{or: for unstored fuel} \\
6022.N & \text{“Fuel expenditure”} \\
& \text{analytical: Non-deductible expenses}
\end{align*}
\]

\[
\begin{align*}
= & \quad 5311 \text{“Petty cash in lei”} \\
& \text{with total amount of the tax} \\
& \text{(542 “Cash advances”)} \\
& \text{receipt (including VAT)}
\end{align*}
\]

Applying the same logic as in the fuel purchased based on invoice, for purchases of vehicles in the country, non-deductible VAT was included in the purchase cost of the vehicle, namely:

\[
\begin{align*}
2133 & \text{“Motor vehicles”} \\
& \text{or: for those not received} \\
231 & \text{“Tangible assets in progress”}
\end{align*}
\]

\[
\begin{align*}
= & \quad 4426 \text{“Input VAT”} \\
& \text{with the amount of VAT from} \\
& \text{the vehicle purchase invoice}
\end{align*}
\]

Instead, for leasing operations, VAT was deductible in full for the lease installments, interests and foreign exchange differences throughout the lease agreement, without affecting the purchase cost of the vehicle, but became non-deductible at the end of the financial lease agreement for the residual value (where the residual value was not null). Non-deductible VAT related to the residual value was fully non-deductible, but only affected non-deductible expenses and not the acquisition cost of the vehicle:

\[
\begin{align*}
4426 & \text{“Input VAT”} \\
= & \quad 404 \text{“Suppliers of non-current assets”} \\
& \text{with the amount of VAT from} \\
& \text{the invoice on residual value}
\end{align*}
\]

and, simultaneously:

\[
\begin{align*}
635.N & \text{“Other taxes, duties and similar expenses”} \\
& \text{analytical: Non-deductible expenses}
\end{align*}
\]

\[
\begin{align*}
= & \quad 4426 \text{“Input VAT”} \\
& \text{with the amount of VAT from} \\
& \text{the vehicle purchase invoice}
\end{align*}
\]

\[
\begin{align*}
B. \text{ Period 01/01/2012 – 06/30/2012}
\end{align*}
\]

Since, in this period, VAT is only partially non-deductible (i.e. 50%), all records of vehicle purchases (subject to 50% taxation treatment) had to be accompanied by the entry of non-deductible tax as non-deductible expense (similar to the VAT entry at residual value during May 1, 2009 - December 31, 2011), without affecting the purchase cost:

\[
\begin{align*}
635.N & \text{“Other taxes, duties and similar expenses”} \\
& \text{analytical: Non-deductible expenses}
\end{align*}
\]

\[
\begin{align*}
= & \quad 4426 \text{“Input VAT”} \\
& \text{with 50% of the VAT included} \\
& \text{in the vehicle purchase invoice}
\end{align*}
\]

Fuel costs were considered deductible / non-deductible in proportion of 50%, being reflected accordingly, without affecting the purchase cost:

\[
\begin{align*}
\%
\end{align*}
\]

\[
\begin{align*}
3022 & \text{“Fuel” (for stored fuel)} \\
& \text{or: for unstored fuel} \\
6022 & \text{“Fuel expenditure”} \\
6022.N & \text{“Fuel expenditure”} \\
& \text{analytical: Non-deductible expenses} \\
4426 & \text{“Input VAT”}
\end{align*}
\]

\[
\begin{align*}
= & \quad 401 \text{“Suppliers”} \\
& \text{with total amount of the invoice} \\
& \text{- with the amount excluding VAT} \\
& \text{- with 50% of the amount excluding VAT} \\
& \text{- with 50% of the amount excluding VAT} \\
& \text{- with the VAT amount}
\end{align*}
\]

- and, simultaneously, 50% of the VAT on purchase:

\[
\begin{align*}
635.N & \text{“Other taxes, duties and similar expenses”} \\
& \text{analytical: Non-deductible expenses}
\end{align*}
\]

\[
\begin{align*}
= & \quad 4426 \text{“Input VAT”} \\
& \text{with 50% of the amount of VAT} \\
& \text{from the fuel purchase invoice}
\end{align*}
\]

For the entry of fuel purchase based on tax receipt (unaccompanied by invoice), given that VAT was only
partially non-deductible, the same records were made as in the purchase of fuels based on invoice but replacing the account 401 “Suppliers” with the account 5311 “Petty cash in lei” or 542 “Cash advances”:

<table>
<thead>
<tr>
<th>Account</th>
<th>Description</th>
<th>Note</th>
</tr>
</thead>
<tbody>
<tr>
<td>6022</td>
<td>“Fuel expenditure”</td>
<td>= 5311 “Petty cash in lei” (542 “Cash advances”) - with total amount of the tax receipt - with 50% of the amount excluding VAT - with 50% of the amount excluding VAT - with 100% of the total VAT</td>
</tr>
<tr>
<td>6022.N</td>
<td>“Fuel expenditure”</td>
<td>analytical: Non-deductible expenses</td>
</tr>
<tr>
<td>4426</td>
<td>“Input VAT”</td>
<td></td>
</tr>
</tbody>
</table>

and, simultaneously:

<table>
<thead>
<tr>
<th>Account</th>
<th>Description</th>
<th>Note</th>
</tr>
</thead>
<tbody>
<tr>
<td>635.N</td>
<td>“Other taxes, duties and similar expenses”</td>
<td>= 4426 “Input VAT” - with 50% of the amount of VAT from the tax receipt</td>
</tr>
<tr>
<td>analytical: Non-deductible expenses</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

- or reflecting the proportion of non-deductible VAT, as follows (however, the amounts are not resumed in the Statement 394):

<table>
<thead>
<tr>
<th>Account</th>
<th>Description</th>
<th>Note</th>
</tr>
</thead>
<tbody>
<tr>
<td>6022</td>
<td>“Fuel expenditure”</td>
<td>= 5311 “Petty cash in lei” (542 “Cash advances”) - with total amount of the tax receipt - with 50% of the amount excluding VAT - with 50% of the total VAT - with 50% of the amount excluding VAT - with 50% of the total VAT</td>
</tr>
<tr>
<td>4426</td>
<td>“Input VAT”</td>
<td></td>
</tr>
<tr>
<td>6022.N</td>
<td>“Fuel expenditure”</td>
<td>analytical: Non-deductible expenses</td>
</tr>
<tr>
<td>635.N</td>
<td>“Other taxes, duties and similar expenses”</td>
<td>analytical: Non-deductible expenses</td>
</tr>
</tbody>
</table>

C. 07/01/2012 – present

From an accounting perspective, the records are similar to those made in the period January 1, 2012 - June 30, 2012, but do not forget that half of non-deductible VAT related to vehicle purchases (including leasing) and operating costs (fuel, repair costs, spare parts, etc.) is a deductible expense in calculating the income tax. Consequently, this situation implies the entries:

- **Vehicle purchase:**

<table>
<thead>
<tr>
<th>Account</th>
<th>Description</th>
<th>Note</th>
</tr>
</thead>
<tbody>
<tr>
<td>2133</td>
<td>“Motor vehicles”</td>
<td>= 404 “Suppliers of non-current assets” - with total amount of the invoice - with the amount excluding VAT - with total VAT</td>
</tr>
<tr>
<td>or: for those not received</td>
<td></td>
<td></td>
</tr>
<tr>
<td>231</td>
<td>“Tangible assets in progress”</td>
<td></td>
</tr>
<tr>
<td>4426</td>
<td>“Input VAT”</td>
<td></td>
</tr>
</tbody>
</table>

simultaneously, non-deductible VAT (50%), which became deductible (25%) and non-deductible expense (25%):

<table>
<thead>
<tr>
<th>Account</th>
<th>Description</th>
<th>Note</th>
</tr>
</thead>
<tbody>
<tr>
<td>635</td>
<td>“Other taxes, duties and similar expenses”</td>
<td>= 4426 “Input VAT” - with 50% of the total VAT amount - with 25% of the total VAT amount</td>
</tr>
<tr>
<td>635.N</td>
<td>“Other taxes, duties and similar expenses”</td>
<td>analytical: Non-deductible expenses</td>
</tr>
</tbody>
</table>

The same applies in the case of financial leasing, instead of account 2133 “Motor vehicles” but using the accounts: 167 “Other loans and similar debts” 665 “Foreign exchange losses” and 666 “Interest expense”.

- **Purchase of unstorable fuel based on invoice / tax receipt:**

<table>
<thead>
<tr>
<th>Account</th>
<th>Description</th>
<th>Note</th>
</tr>
</thead>
<tbody>
<tr>
<td>6022</td>
<td>“Fuel expenditure”</td>
<td>= 401 “Suppliers” (invoice) - with total amount of the tax receipt - with 50% of the amount excluding VAT</td>
</tr>
<tr>
<td>or:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>5311</td>
<td>“Petty cash in lei”</td>
<td>- with 50% of the amount excluding VAT</td>
</tr>
<tr>
<td>542</td>
<td>“Cash advances” (tax receipt)</td>
<td>- with total VAT</td>
</tr>
</tbody>
</table>
and, simultaneously, non-deductible VAT (50%) is reflected, which became deductible (25%) and non-deductible expense (25%):

\[ \begin{align*}
\text{635 "Other taxes, duties and similar expenses"} & = 4426 \text{ "Input VAT"} \\
\text{635.N "Other taxes, duties and similar expenses"} & = \text{analytical: Non-deductible expenses} \\
& - \text{with 50% of the total VAT amount} \\
& - \text{with 25% of the total VAT amount} \\
& - \text{with 25% of the total VAT amount}
\end{align*} \]

The operating costs, other than fuel costs, are reflected in a similar manner instead of account 6022 “Fuel expenditure” but using the appropriate accounts of expenditure, in relation to their nature (611 “Maintenance and repair expenses”, 613 “Insurance premiums” etc.).

3. Conclusions

We believe that we have managed to capture both the tax system, in chronological and comparative order, and the appropriate ways for entering in any trader’s accounts the vehicles weighing less than 3,500 kg. and with no more than 9 seats, subject to the limited taxation treatment (excluding the exceptions provided by law), entering the assets since May 1, 2009, and the costs of these vehicles, both in terms of value added and income tax (through non-deductible expenses or deductible with limitations). The following conclusions emerge from what we presented in this paper:

- the limitation of VAT deduction and deductible expenses for such vehicles is based primarily on the Government’s attempt to boost the resources of the state budget, on the grounds, at first sight, of encouraging investment in directly productive vehicles considered necessary to conduct a business (transport, security, intervention etc.). But at a deeper analysis we can find some deficiencies, namely: difficulties in properly demarcating the exclusive use of vehicles for businesses that fall entirely under the care of the taxpayer (for example, according to the regulations in force, occasional use of a vehicle for personal purposes entails limited deductibility to 50%); therefore the tax authority will be an “inquisition” body regarding the relevance of fiscal state of affairs using “any other evidence that can be provided” [4]); in accounting terms, the complexity of bookkeeping increases, implicitly increasing the risk of errors (state’s interest should not consist only in increasing budgetary resources but rather in ensuring legal stability, simplicity and transparency of the tax and accounting, system, investor confidence etc.;
- this is the first time when the tax authority allows taxpayers to deduct (it’s true that only 50%) expenditure on fuel without requiring roadmaps etc. when it classifies the vehicle as not being used exclusively for business activities;
- from an accounting perspective, in order to keep pace with the tax changes, taxpayers are forced to use accounting tricks (“forced correspondence” between accounts 2133 and 6022, on the one hand, and 4426, on the other hand, is such a trick);
- the State, although the exponent of citizens and works (or should work) in their interest, actually stands out as the opponent of entities; the primary interest of State representatives is to increase budget resources by any means (often short-term benefits are offset by medium and long-term economic disasters).

4. References

[8] *** Government Decision no. 488 of April 28, 2009 supplementing the Methodological Norms for applying Law
