TANGIBLE ASSETS IN TERMS OF DISCONNECTION BETWEEN ACCOUNTING AND TAXATION

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Abstract

The purpose of this paper is to make a summary of the accounting and tax provisions of the tangible assets, regarding the current trend of disconnection between tax and accounting. Also, we are going to *put together both tax and accounting provisions and we highlight* which are the *necessary and compulsory tax* documents *for fixed assets.*

In taxation, the principle "guilty until proven innocent" is applyng. That means that responsibility to know the Fiscal Code is an obligation "sine qua non" for taxpayers.

Thus, there is in low the principle that "no one can excuse invoking *ignorance of the law" ("Nemo censetur ignore legem").*

Based on these considerations, we found it necessary to make a summary of the fiscal obligations that have economic entities on fixed assets. This synthesis can provide to a company a basis for strong arguments *in discussions with tax authorities that can prevent an aggressive approach of them.*

Keywords: *fixed assets, accounting amortization, the file of transfer prices, amortization, capital assets.*

1. Introduction

The recent history of Romanian accounting is characterized by instability in seeking the best solutions to align to European and / or international accounting system. This research focuses on presenting that situation wich are in the areea of disconnection between accounting and taxation about fixed assets.

In the early 1990s, accountancy was dependent upon taxing, which was exerting a significant influence on accounting and on the approach to the recognition and measurement. Accounting rule was poor, so it was almost exclusively consisting in recording mode of economic and financial operations. "The lack of formal solutions to solve specific accounting problems were an area of freedom available for accountants, space in which to exercise their professional judgment. In this way was tested the creativity, is checked perseverance in the study of other rules and adapting to their needs"[1].

In a research study on normative type concerning changes that occurred in the accounting regulations in Romania[2] in the last ten years, the authors concluded that "at present, in Romania, accounting and taxation is disconnected, only barrier left to overcome in custom accounting practitioner to think in terms of economic transactions tax ".

Although formally accepted, disconnecting between accounting and taxation, in the implementation process continues to face many difficulties. It can see great progress, sometimes unexpected, followed by recovery and reinterpretations, as noted G. Popescu3.

But there remains an artificial dependency between taxation and accounting, maintained by the practice. And we refer to situations in which, although there are accounting rules, it choose the taxation rule to the detriment of accounting one, for several reasons: convenience, saving time and administrative costs. An example of this is the depreciation: accounting rules may differ significantly from fiscal rules, which has the effect of keeping the two records amortization: accounting (in the accounting records) and tax records (in a special register for this purpose).

Taxation has also passed through many changes in the last twenty years. Some of the changes were dictated by state fiscal policy, by the political interests of various parties in power, and some of integrating, in 2007 the European Union. All changes related to harmonized taxation had a direct impact on each category of taxpayers, individuals and businesses, and from an accounting viewpoint changes confirms that all plans must be made for the image correlation both fiscal and accounting statements financial statements to reflect reality and to be comparable at both micro and macro level.

2.1 The accounting policies - real leverage in the context of disconnection

Emphasizing the conformity of annual financial statements with the provisions of accounting reference

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[1] Costel Istrate, *Evoluţii, convergenţe, realizări, puncte tari şi puncte slabe în contabilitatea întreprinderilor mici şi mijlocii*, articol publicat în Congresul profesiei contabile din România „Profesia contabilă între reglementare şi interesul public, Ed. CECCAR, Bucureţti, 2008.

[2] M. Ristea, I. Jianu, I. Jianu*; Experienţa României în aplicarea Stadardelor Internaţionale de Raportare Financiară şi a Standardelor Internaţionale de Contabilitate pentru sectorul public*, Revista Transilvană de Ştiinţe Administrative, 1 (25)/2010, pp. 188.

[3] Gheorghe Popescu, Adriana Popescu, Cristina Raluca Popescu - *Imaginea fidelă versus fiscalitate în contabilitatea românească a anului 2006*- editura Gestiunea, Bucureşti, 2006.

regarding their true image, M. Ristea[4] underlines the fact that the conformities with the provisions from accounting regulations do not exclude the presence of some liberties.

The presence of several options in the accounting referential, namely wide varieties of accounting policies, as well as a variety of assessment techniques, can sometimes lead to serious consequences on the decision-making process. The option of the company management for one of the many treatments and accounting policies creates implicitly the possibility to deliberately choose the treatment or policy that meets the interests of the entity, which does not always converge to the accurate image but rather to a conventional one. Thus, V. Munteanu and M. Zuca[5] believe that it is possible that a distortion of the quality of financial information to result from this, generating uncertainties in relation to the consistency and comparability of the information intended for users.

The utility of accounting policies[6] „results from practical reasons, from the need to establish the development conditions of certain transactions that have an impact in accountancy and finally from the fact that accounting information is the basis of decisions taken by administrators and shareholders".

Although considered from the start like a worthless busywork, the usefulness of presenting accounting policies like a manual has been demonstrated in time. It has been shown to have a practical role to contribute to the economy of time especialy when accounting personnel is changed, for example, in addition to the stated purpose of contributing to presenting a true and fair view of the financial position and earnings.

As emerges from the above, the accounting policies affect the level of the outcome and there should be a guarantee that the entity has not turned to accounting manipulations in order to increase profits. Such a state of things is improved for companies that are required to audit their annual financial statements.

2.2 The fiscal policies

Fiscal policies represent a set of decisions, choices and actions at company level with the objective to achieve an optimal fiscal cost that matches the company's aspirations.

At company level, **fiscal policies** represent the concrete manner in which specific instruments and techniques are used to achieve the objectives of fiscal management. If, for accounting purposes, the entities are subject to accounting rules in order to present an accurate image of the financial position, the outcome as well as the modification of the financial position, from the fiscal point of view, they are subject to fiscal rules existent in the moment of calculating income taxes and taxes.

Fiscality acknowledges some of the principles, methods and rules stipulated by the accounting regulations. Without covering the subject, we are referring to the principle of the permanence of methods, the principle of matching expenditures with revenues, stock assessment methods when leaving the inventory, etc. But there are situations where it is developing its own applicable methods and rules for the calculation of income tax, such as recognition and depreciation of tangible assets, the recognition of revenue and expenditure, providing stimulants or tax incentives, etc. Throughout this paper we shall largely refer to these differences between fiscal and accounting rules and methods.

2.3. Accounting rules on tangible assets

Basic problems framed in engaged relations between accounting and taxation regarding fixed assets refers to: recognition, initial measurement, subsequent measurement and amortization.

Fixed assets, also known as **tangible assets** or **property, plant, and equipment** (**PP&E**), is a term used in accounting for assets and property that cannot easily be converted into cash. The fixed assets represent single or the complex of objects utilized independent in business entity in the production of goods or services, for rental to others or for administrative purposes. Is expected to use for more than one accounting period.

In order for an asset to be recognized in the financial statements, it must follow the definition: *Asset is a resource controlled by the entity as a result of past events and from which future economic benefits are expected to flow to the entity.*

Before a fixed asset is recognized in the financial statements, the following recognition criteria ought to be met:

- The inflow of economic benefits to entity is probable.
- The cost/value can be measured reliably.

Initial evaluation of the tangible assets fall in the general rules for evaluation. The exception is where it is necessary setting up provisions for decommissioning of fixed assets. They are included in the value of the goods that require substantial costs from disassembly and ecologising of the site as these costs should be covered by economic entity during the economic benefits are obtained from the exploitation of those goods.

Subsequent evaluation refers to the subsequent expenditure and evaluation to reflect in the financial statements at cost or revalued amount.

[4] Mihai Ristea, *Conformity and Liberty in Accounting Policies of Financial Period Closing*, article published in Pro Domo, Monthly Journal of CECCAR, no. 2/2011 pg 19-22.

[5] Victor Munteanu and Marilena Zuca, *Considerations on the use of creative accounting in the deformation of information within the financial statements and "the maximization" of the company's performance,* article published in Audit financiar Magazine no. 3/2011, page 3-10.

[6] Georgeta Petre, Alexandra Lazăr, Elena Iancu, Monica Avram, Elisabeta Duinea, Daniel Petre, *Accounting Policies in Conditions of Application of Accounting Regulations corresponding to Fourth Directive of CEE,* Official Gazette Publishing House, București, 2010*, pg 22.*

Subsequent expenditure that can be made regarding fixed assets can be grouped into two categories:

- Costs incurred in order to maintain the performance of the asset, namely expenses for repairs and maintenance asset. This do not add to its carrying amount, they will be treated as period costs;
- Costs incurred in order to increase the performance of asset by improving or its performance, or by reduce costs. They are termed modernization expenses and are recognized as a component that increases the carrying amount of the asset.

In practice there is a certain difficulty to make difference between the maintenance and improvement expensis for a fixed assets.

The decision on how to recognize such subsequent costs have effect on the financial position or on the performance of an economic entity and may constitute an economic strategy with effects on the result.

Revaluation is an alternative for presentation of a tangible asset in the balance sheet at choice with the presentation at cost. In a previous study we presented revaluation rules and a case study whose purpose is the revaluation.

Amortization

Amortization is the allocation of the depreciable amount of a fixed asset over the estimated life.

An overview of accounting depreciation is shown in the table below[7]:

Accounting depreciation of fixed assets
Tangible assets are assets that: - Are held by an entity for use in the production of goods or services to be leased to third parties or used for administrative purposes and - Are used for a period longer than one year.
The assessment base is: - acquisition cost for bought goods; - production cost for goods produced in the entity; - contribution value determined by an expert assessor for property obtained as a contribution to capital; - market value or fair value for assets received free of charge or plus to the inventory found;
The assessment base can change with: - including in depreciation of value of the costs after putting into service of an asset when they improve operational status of the asset in comparation with the initially estimated performance of that asset; - amortizable value may be decreased if the utility of an asset or group of assets is permanently altered as a result of moral damage or wear; - revalued value, in case of application for revaluation treatment.
Useful life is determined by economic life.
Useful life can change: - After revaluation; - May be reviewed
Not amortized: land
It amortized and: - Investments for arrangement of lakes, ponds, land and other similar works.
It amortized: - Investments to tangible assets leased, on the lease duration. On expiry of the contract value of the made investment and the corresponding depreciation gives to the property's owner
Depreciation method: - The linear method; - Degressive method; - Accelerated method; - Method per unit of product.
It is necessary to use the same method of depreciation for all assets of the same nature and to have identical terms of use.
It is also amortized - Development costs are amortized over the contract period or duration of use - Costs of setting up are amortized over a maximum period of five years, if the entity chooses not to recognize them in period's costs. - Goodwill is amortized, usually within a period not exceeding five years. - Patents, licenses, trademarks, rights and other similar assets are amortized over their expected use by the entity holding them.

[7] Mariana GURĂU, Maria GRIGORE - *Comparative Study on Accounting and Fiscal Amortization* - LEX ET SCIENTIA International Journal, No. XX, Vol. 2/2012, pg 170-181.

2.4. Taxation rules of tangible assets

The declared purpose of this paper is to put together bought tax and accounting provisions and, in particular, to highlight which are the necessary and compulsory tax documents for fixed assets.

In taxation, the principle "guilty until proven innocent" is applyng. That means that responsibility to know the Fiscal Code is an obligation "sine qua non" for taxpayers.

Thus, there is in low the principle that "no one can excuse invoking ignorance of the law" ("Nemo censetur ignore legem").

Based on these considerations, we found it necessary to make a summary of the fiscal obligations that have economic entities on tangible. This synthesis can provide to a company a basis for strong arguments in discussions with tax authorities that can prevent an aggressive approach of them.

2.4.1. Amortization.

In the acceptation of the Fiscal Code, the concept of asset is used to define any property, which is held for use in the production or supply of goods or services, to be leased to third parties or for administrative purposes, if it has a normal duration more than one year and a value greater than the limit established by Government decision.

In fiscal terms, we can define amortization as a recovery by deductions of acquisition, production, construction assembly or improvement assets costs from the result. Fixed assets are differentiated in amortizable fixed assets and unamortized fixed assets.

At the entrance in the entity of a fixed asset it will be drawn up a sheet of the fixed asset in order to record tax depreciation. In the context of disconnection between accounting and taxation, a company can choose different depreciation methods and economic life for accounting purposes, over those chosen for tax purposes. In this situation, the resulting differences will be highlighted through the "Register of tax recording".

Fiscal depreciation of fixed assets
Depreciable fixed assets are represented by any tangible which meets the following conditions: - Are owned and used in the production, supply of goods or services to be leased to third parties or for administrative purposes; - Have a fiscal value higher than the limit established by Government decision; - Have a duration of use more than one year.
By exception, if an item of tangible asset has a fiscal value less than the limit established by Government decision; the taxpayer may choose to deduct costs or to recover these costs by depreciation deductions.
The assessment base is *fiscal value* represented by: - acquisition cost, - production cost, - market value of assets gained free of charge or provided as contribution, the entry in the property taxpayer Fiscal value includes accounting revaluations.
The assessment base can change with: - the later costs will be included in asset cost, if this leading to higher economic benefits - Replacing the initial fiscal value with revalued value, only if it is not lower than the entry value.
The normal operating period – from Catalog
The normal operating period can not be reviewed (change).
Not amortized: - Land, including forests; - Paintings and works of art; - Goodwill; - Lakes, ponds and lakes that are not the result of an investment; - Public goods financed from the budget; - Any asset that does not lose value over time due to use, according to the rules; - Own holiday homes, housing protocol, vessels, aircraft, cruise ships, other than those used for his income.
It amortized and: Land arrangements, linear over a period of 10 years
It amortized: - Costs of investments to fixed assets leased, rented or leased by the management who made the investment, during the contract or during normal use, as appropriate.
Depreciation method: - In case of construction applies linear depreciation method; - In case of technological equipment, machinery, tools and plants, as well as computers and peripherals thereof, may opt for linear depreciation method, degressive or accelerated; - In case of any depreciable asset, can opt for linear or degressive depreciation method. - Per unit of product for exploitation of mineral substances useful; - Vehicles can be amortized and depending on the number of kilometers or number of operating hours provided in the manuals.
It is necessary to use the same method of depreciation for all assets of the same nature and having identical terms of use.
It is also amortized * using linear method during the contract period or useful life of: - Costs related to the acquisition of patents, copyrights, licenses, trade marks or factory - Other intangible assets recognized for accounting purposes, - Development costs which are recognized as intangible assets from accounting point of view • linear, over a period of three years - Cost of acquisition or production software. • Degressive or accelerated depreciation method. - For invention patents
Not amortized: - Costs of setting; - Goodwill,

As we can be see from the table, between accounting and fiscal treatment there are asymmetries at all levels: elements that are subject to depreciation, depreciation methods, the possibility of revision, revaluation. Perhaps for this reason, the accounting rules and fiscal rules come to meet the need of specialists with very clear specifications about depreciation.

2.4.2. Adjusting of capital goods' VAT

The adjustment is required for **capital goods** because one must take into account that these goods are, by definition, used by the taxable person for a number of years and that the VAT tax deductment for these goods is allowed only on the condition that they are used for operations which give a deduction right.

Capital goods include all fixed capital goods, as well as transformation and improvements of fixed assets/ parts of fixed assets, should they exceed 20% of the value, excluding maintenance and repairs. Fixed assets are considered capital goods regardless of whether they are recorded as inventory or fixed assets.

The VAT adjustment represents the correction of the tax deduction right, either by the annulment of the right exercised at the moment of acquisition/construction/improvement of goods, or by exercising this right after the acquisition/construction/improvement of goods, if it was not exercised initially.

The person has to maintain ***a record of the capital goods*** which are the object of the VAT adjustment, which would allow for a control of the deductible value and any adjustments made. This record needs to be kept for a period starting from the moment when the tax on the acquisition of the capital good becomes demandable and it ends after 5, or respectively 20 years after the end of the period during which the deduction adjustment can be solicited.

Adjustment periods are differentiated depending on the type of capital goods, thus:

- 5 years for capital goods, other than fixed assets;
- 20 years for fixed assets, including transformation or improvement of fixed assets, should the costs exceed 20% of the value.

When to conduct a VAT adjustment?

a) The deduction adjustment is performed for capital goods when they are used, by the taxable person, for:

- Either partially or entirely for purposes other than their economic activity;
- Operations which do not give a tax deduction right;
- Operations for which the tax deduction is different than the initial deduction.

b) In situations when elements included in the calculation for the tax deduction are changed;

c) In situations when the deduction right for a capital good was limited, partially or in totality, and is used in an operation which allows for a deduction. For deliveries of goods, the additional value of the tax deduction is limited to the value received for the delivery.

The adjustment is done only once or once per time period:

A. The adjustment is performed **only once** for the entire remaining adjustment period, including the year during which the destination of the good is changed, when:

a) The destination of the capital good i is changed;

b) A capital good, whose deduction right was limited, partially or in totality, is the object of a delivery which allows for a tax deduction;

c) The capital good no longer exists, unless:

- It can be proved that the capital good was the object of a delivery which allows for a tax deduction, or
- The capital good has been destroyed.

From a fiscal perspective, the VAT adjustment will be declared by using the VAT expense account form, code 300, with a minus sign at row 31, called "Pro rata adjustments/Adjustments for capital goods". Furthermore, it will be recorded in the capital goods register, which must be kept for a period starting from the moment when the tax, for the acquisition of the capital good, is eligible and ending 5 years after the end of the period during which a deduction adjustment right could be exercised. This is to permit the control of VAT deductible and adjustments. Any other records, documents and journals concerning the capital goods must be kept as well, for the same period.

B. When the pro rata changes, the adjustment is performed **for more than one financial period**. The steps for this are the following:

a) The initial tax deductible is divided by 5 or 20;

b) The result from pt. 1 is multiplied with the definitive pro rata for each one of the subsequent 4 or 19 years;

c) The tax deducted initially, according to the definitive pro rata, is divided by 5 or 20.

The results from pts. b and c are compared. Any difference between them represents the adjustments which need to be made and which will be recorded in the regularization of the tax expense account of the last period of the fiscal year.

2.4.3. The file of transfer prices

Transfer prices are the prices for which goods or services are transacted between affiliated companies, part of the same group.

These prices, according to the law, must be set at market value, as the transaction would be made between companies with no connection between them.

But in practice this never happens, in the sense that the prices are often designed to favor the tax interests of the group (as few taxes to be paid).

The solution found by the legislature in order to counteract this disadvantaged situation for the budget consisted in request of compiling a dossier of the transfer prices to show how it obtained the amount of that transaction's prices and demonstrating observance of market price.

The file of the transfer pricing is an important instrument of tax administration for the control of profits movement in other more favorable jurisdictions, it is necessary to demonstrate that prices are at the level of the maket.

A thorough process for preparing a file of the transfer pricing will bring value to the company.

The positive aspects arising from a much better understanding of the business in Romania and also of the transactions / processes from the Group, of the market in which the company operates, the manner where it acts the competition and, most importantly, the preparation of a file transfer pricing may lead to the identification of tax optimization solutions.

The obligation to prepare annual the transfer pricing file belongs to entities of large taxpayers if they carry on transactions with affiliates with a total annual value, calculated by adding the value of transactions with all affiliated persons excluding VAT, higher or equal to any of the tresholds of significance below:

- 200,000 euros for interest earned / paid for financial services;
- 250,000 euros for transactions or services received / rendered;
- - 350,000 euros in case of the transactions on purchase / sales of tangible or intangible assets.

The ceilings are calculated according to the BNR exchange rate for the last day of the fiscal year and are associated with the transactions performed with affiliated persons carried out since 2016.

The transfer pricing file will NOT be requested and is not made:

- From the entity that owns an advance price agreement, for transactions and periods covered by advance pricing agreement issued by ANAF; or
- From the transactions for which it was issued a decision of adjusting / estimating the income or expense of any affiliated person.

A person is affiliated if her relationship with another person is defined by at least one of the following cases:

a) a natural person is affiliated with another natural person if these are husband / wife or relatives up to the third degree inclusive;
b) a natural person is affiliated with a legal person if the natural person owns, directly or indirectly, including holdings of affiliated persons less than 25% of the value / number of shares or voting rights of a juridical person or if effectively controls legal person;
c) a juridical person is affiliated with another juridical person if at least it holds, directly or indirectly, including holdings of affiliated persons less than 25% of the value / number of shares or voting rights in other juridical person or if controls in fact that juridical person;
d) a juridical person is affiliated with another juridical person if a third person owns, directly or indirectly, including holdings of its affiliated persons, less than 25% of the value / number of shares or voting rights in both the first juridical person, as well as the twice, or if effectively controls those businesses.

It is considered that a person effectively controls a juridical person if it is established that both, factually and legally, by using information and / or documents, the administrator / management staff has the ability to decide on the business of the juridical person concerned, by signing transactions with other juridical persons wich are controlled by the same manager / senior staff or that the directors of the juridical person is shareholder or administrator in the juridical person.

The deadline for preparation of the transfer prices folder is the legal term for submission of Statement 101 regarding profit tax, namely:

- 25 February for taxpayers who earn mainly income from cultivating cereals, industrial crops and potatoes, horticulture and viticulture (or 25 of the second months from the end of the adjusted fiscal year);
- 25 March for other entities (or 25 of the third month since the closure of the changed fiscal year).

These entities have the obligation to present by demand of the tax authorities, during the course of a tax inspection, transfer pricing documentation. Moreover, transfer pricing file can be requested by the tax authorities outside a tax inspection actions.

The deadline for making available the transfer pricing file shall not exceed 10 calendar days from the request, but not earlier than 10 days from closing date for the preparation.

3. Conclusions

As shown in the study of accounting and fiscal policies, as well as the relation between accounting and fiscality, the elements that can generate differences between these two areas are the following: acknowledgement and measurement, depreciation and implicitly the taxation of profit.

Any difference between the accounting policies adopted by the company and the fiscal policies must be amended accounting-free. We must not let the fiscal policies influence us when choosing the accounting policies even though this would mean less work.

Robert Bricker has remarked in an article (R. Bricker, Toward understanding academic research. Accounting, CPA Journal, American Accounting Association, February 1993) the too narrow horizon of accounting practitioners, the removal of the theory by practice. Our opinion on this subject is that this removal is "encouraged" by the fact that an approach of the accounting theory in terms of fiscal rules is easier, requires less time, effort and resources. This inevitably leads to a limitation of satisfying the users' needs of financial and accounting information. Therefore, accounting and tax research must be combining the information obtained as a result of theoretical research with information from economic reality.

But there are many problems that an accountant is forced to face and largely state they are caused by excessive bureaucracy, the greater the number of laws that come into amending the Tax Code and accountants who make trouble.

As a general conclusion we can consider without reserves that **significant progress was made** i**n Romania regarding accounting and taxation as well as regarding the disconnection of taxation from accounting**. This process of perfection of the accounting and fiscal system needs a special attention in the future because on an international and European plan, the mentioned fields are very dynamic, fact that also influence the national environment in the conditions in which business doesn't know boundaries and its effects, favourable or not, spread very quickly.

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