

**EUROPEAN MECHANISMS OF VAT TAXATION AND THEIR
IMPLEMENTATION IN TAX AND ACCOUNTING PRACTICE
OF THE REPUBLIC OF MOLDOVA**

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Abstract

Throughout its existence, the value added tax (VAT) influenced negatively the economic activity of entities and financial situation of population, representing at the same time a considerable source of income to the state budget.

In the European Union (EU) legislation there are legislative directives which encode the provisions of implementing the common system of VAT, that apply to the production and distribution of goods and services for consumption within the EU. These Directives issued at Community level do not apply directly, these being transposed into national legislation of each Member State.

One of the prerogatives of alignment the Republic of Moldova (RM) to EU is the improvement of its legislation in accordance with the provisions and conditions imposed by the EU.

Thus, the first step for RM in improving tax system according to legislative requirements of the European Union is directed towards legal harmonization of VAT to the conditions of the European standards. In connection with above-mentioned, this article reflects some mechanisms of VAT taxation in European countries and the ways of their implementing in tax and accounting practice of RM.

Keywords: *value added tax, purchases, sales, budget, reverse charge, obligation to pay.*

1. Introduction

Dr. Alain Taut, director of the Fiscal Affairs Department of the International Monetary Fund, presented some problems regarding the implementation of VAT. In his opinion, there are three main reasons for the adoption of VAT, namely:

- ensuring consistently enough revenue to the state budget. Thus, the VAT contributes with 12% to 30% to its formation, in most countries where is applicable, representing at the same time, about 5-10% of the GNP. This shows that VAT is a considerable source of income and tax base;
- pronounced neutrality of this type of indirect tax, which is not distorted;
- increased efficiency of such fiscal instrument that often replaces some inefficient taxes, distorted or hard to manage, affecting gain tax evasion, such as for example, taxes on capital exports or imports [1].

2. The degree of investigating the problem

Introduction of value added tax instead the tax on movement of goods represented a turning point in improving the tax system and at the same time the first step towards the tax reform in the

country. However, it was a requirement for transition to a market economy and a future alignment to the European standards.

The UE legislation through the Directive 2006/112/EC of the European Union of 28 November 2006 on the common system of VAT recommends applying the reverse charge mechanism for services particularly susceptible to fraud. At present the reverse charge is applied by 10 Member States, among which Romania is.

In RM Tax and customs policy objectives in the medium term of 2015-2017 provides for introduction of reverse charge mechanism for certain supplies, such as pledged property, mortgaged property, sequestered and being declared in insolvency process [11].

3. Methods and materials applied

The foundation of research is basic Directives by which are codified the provisions of implementing the common system of VAT, applying to the production and distribution of goods and services bought and sold for consumption within the European Union.

Investigation of problems was possible using the following methods: analysis, synthesis, comparison, induction, deduction.

4. Results obtained and discussions

4.1. European mechanisms of VAT taxation

Impact of value added tax (hereinafter called VAT) on the economy was mentioned for the first time in France at the initiative of Maurice Laure in 1954. Later this indirect tax was introduced in other countries of Europe, Asia, Africa and Latin America. The basis for the introduction of VAT has found a motivation in substituting various taxes charged on turnover and its use as a single tax levied at various stages of production by manufacturers. Each manufacturer is entitled by law to deduct VAT previously supported in the own production [8].

In 1967 on the European continent, after ten years of the Treaty of Rome, within the European Economic Community, a number of legislative directives have been adapted which laid the foundation of this type of indirect tax. Today, in more than 70 countries, VAT finds its significant place in the adopted tax system.

Basic Directives which encode the provisions of implementing the common system of VAT, that apply to the production and distribution of goods and services bought and sold for consumption within the European Union (EU), are as follows:

- ✓ Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax [3];
- ✓ Eighth Council Directive of 6 December 1979 on the harmonization of the laws of the Member States relating to turnover taxes — Arrangements for the refund of value added tax to taxable persons not established in the territory of the country(79/1072/CEE) [4];
- ✓ Thirteenth Council Directive of 17 November 1986 on the harmonization of the laws of the Member States relating to turnover taxes — Arrangements for the refund of value added tax to taxable persons not established in Community territory (86/560/EEC) [14].

Directives issued at Community level do not apply directly, these are being transposed into national legislation of each Member State [7].

According to the Directive 2006/112 / EC of 28 November 2006 on the common system of VAT, the principle of the common system of VAT involves the application to goods and services of a general tax on consumption exactly proportional to the price of goods and services, regardless of a number of operations that occur in the production and distribution process. The common system of VAT applies to retail sale stage, including [3]. The Directive 2006/112/EC recommends applying the reverse charge mechanism for services particularly susceptible to fraud, and assumes that, unlike, its general application will not have a negative impact on the fundamental principles of VAT system [5].

Thus, under Article 199a of this Directive, member States may provide reverse charge, until 31 December 2018 and for a minimum period of two years. The person liable to pay tax is the taxable person receiving the following operations:

- (a) the transfer of allowances to emit greenhouse gases...;
- (b) the transfer of other units that may be used by operators...;
- (c) supplies of mobile telephones, namely devices made or adapted for use in connection with a licensed network and operated on certain frequencies, whether or not they have any other use;
- (d) provision of integrated circuit devices such as the microprocessors and central processing units before their integration into end user products;
- (e) supply of gas and electricity to a taxable dealer, ...;
- (f) providing of certificates for gas and electricity;
- (g) the provision of telecommunications services, ...;
- (h) provision of gaming consoles, tablet PCs and laptops;;
- (i) supplies of cereals and industrial culture, including oilseeds and sugar beets, which are not in principle for the ultimate consumer;
- (j) supplies of metals or semi-finished metals, including precious metals, of special schemes for occasion goods (second-hand), works of art, collectors' items and antiques ...

At present the reverse charge is applied by 10 Member States, among which Romania is. In Romania reverse charge has been introduced since 01.01.2007 for some transactions inside Romania, between VAT payers [6].

According to the Romanian Tax Code, the reverse charge applies to the delivery of goods (ferrous and non-ferrous scrap, residues and other recyclable materials consisting of ferrous and non-ferrous metals, recyclable waste and recyclable materials consisting of paper, cardboard, fabric, cables, rubber, plastic, and glass cullet), supply of wood and wood materials; delivery of cereals and crops, transfer of allowances of greenhouse gas emissions and electricity supply by a taxable dealer.

4.2. Implementation of European mechanisms of VAT in tax and accounting practice of the Republic of Moldova

In RM VAT was introduced on 1 January 1992, replacing the tax on the movement of goods. It is a general state tax representing a form of payment to the budget of a portion of the value of goods

supplied and services provided subject to taxation on the territory of RM, as well as of a portion of the value of all taxable goods and services imported into RM.

Considering that VAT is determined and recorded in the purchase and sale operations of material goods (goods) and services in the country, there are situations where:

a) VAT amount on purchases is less than the amount of VAT on sales, the difference is due to be paid to the budget;

b) VAT amount on sales is less than the amount of VAT on purchases, the difference is due to input into account (recovered).

In general, these two options can be presented schematically in Figure 1:

Taxable supply: a) 2000000 lei b) 3000000 lei	x	Rate of VAT 0,2	=	VAT from taxable supply a) 40000 lei b) 60000 lei	-	TVA from purchase a) 20000 lei b) 70000 lei	=	VAT to be: a) paid - 20000 lei b) recovered - 10000 lei
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Figure 1: Calculation of VAT

Source: elaborated by the author

In determining VAT, the rates established by the Tax Code are applied. VAT rates are applied to the purchases operations of materials, goods and services from RM residents, to the import and trading operations, including export operations, established by art. 96 of Tax Code of the RM. According to the present article, the following rates are established: standard rate – in the amount of 20%, reduced rate - in the amount of 8% and zero rate.

In accordance with the timetable, established by the Association Agreement between the European Union and the European Atomic Energy Community and its Member States, on the one part, and the RM, on the other part, a number of fiscal policy measures on the major type of taxes are expected: income tax on individuals and entities, VAT, excise duties, tax on immovable property, local fees, road taxes and other taxes.

Thus, Annex 1 to the Minutes of the meeting of Budgetary Framework of Coordinating Group on Medium Term of 2015-2017 of the Ministry of Finance No. 2 of 25 March 2014 „The medium-term fiscal policy objectives 2015-2017” provides for the harmonization of legal framework on VAT with EU legislation, namely Directive 2006/112/EC of the European Union of 28 November 2006 on the common system of VAT [11].

One of objectives of harmonization of legal framework on VAT with EU legislation provides for the introduction in 2015 of the reverse charge mechanism for certain supplies, such as pledged property, mortgaged property, sequestered and being declared in insolvency process.

The purpose of implementation of the reverse charge mechanism for these 4 types of internal deliveries is to ensure the revenue collections to the budget at chapter VAT and countering tax evasion in supply chains that occur at intermediate entities which send the input of VAT amounts for other entities, but does not pay obligations for declared deliveries. This reverse charge mechanism will be a simplified compulsory regime of VAT for these deliveries. Thus, the general tax regime of VAT will not be applied to such supplies [10].

On the basis of proposed mechanism, the supplier and the buyer (recipient) will necessarily be registered as VAT payers, and the obligation to pay VAT is attributed to the purchaser (beneficiary) of pledged property, mortgaged property, sequestered and being declared in insolvency process. Under the payment document which confirms the payment of VAT to the budget and tax invoice delivered by the provider of above mentioned properties, the purchaser will have the rights to pass on account the amount of VAT. Supplier will issue the VAT invoices without registration of VAT amount.

Thus, in the case of reverse charge mechanism, the supplier is not subject to taxation on supply of the property, and does not calculate and pay the VAT to the budget, but the buyer (recipient) is taxable subject to VAT, calculates and pays the VAT to the budget, having the right to input the paid VAT into account.

The application of reverse charge mechanism for the pledged property, mortgaged property, sequestered and being declared in insolvency process is based on the fact that the funds obtained from the realization of these properties are primarily used to repay debts to creditors (for ex. commercial banks, central government, etc.).

For a practical reflection of the mentioned, we present the following example:

Example	Limited liability company (hereinafter called LLC) „Garofita”, being supplier, delivers a pledged property to LLC „Armonie” in the amount of 300 000 lei, without indicating the VAT in the issued invoice. LLC „Armonie”, in its turn, based on the invoice, received from the supplier, calculates the VAT in the amount of 60 000 lei, and according to the payment device, transfers that amount to the budget. According to the payment device, LLC „Armonie” gets the right to input the VAT into account. In the same month, LLC „Armonie” delivers textile manufactured by it, and after issuing invoices to its customers (in amount of 800 000 lei), calculates the VAT in the amount of 160 000 lei.
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Given the fact that, LLC „Armonie” calculates the VAT, and according to the payment device, inputs into account the VAT, it takes place a self-liquidation, which is reflected by relationship [12]: VAT inputted into account = VAT collected, in the amount of 60 000 lei.

Following his supplies, LLC „Armonie” calculates also 160 000 lei, which will have:

- VAT inputted into account = 60 000 lei;
- VAT collected = 60 000 lei + 160 000 lei = 220 000 lei;
- VAT payable = VAT calculated - VAT inputted into account = 220 000 lei - 60 000 lei = all the same 160 000 lei, calculated by LLC „Armonie”, according to its supplies.

Thus, the State, through this „gimmick”, transferred the taxation of 60 000 lei to the purchaser (directly), instead taxing the supplier, as usually it is done, and asking the buyer to transfer, directly, all the 220 000 lei, calculated by itself.

In this way, the State budget, rather, is cashing those 220000 lei - integral from a single entity, instead receive them - fragmented from two entities.

According to the invoice, received from the supplier, LLC „Armonie” should decrease, normally, from collected VAT of 160 000 lei, that deductible VAT of 60 000 lei, reflected in the fiscal invoice received from supplier, i. e. the payment to the State should be only 160 000 lei. It follows that by purchasing pledged property, mortgaged property, sequestered and being declared in insolvency process, the buyer is obliged to pay in addition the VAT for such purchased goods.

According to the Ministry of Finance, implementation of reverse charge mechanism in the areas of supplies, made in Moldova, of pledged property, mortgaged property, sequestered and being declared in insolvency process, purpose an optimal collection of claims and a more rigorous control by the tax authorities. Given the fact that, these areas are subject to risks of fraud most often, to circumvent the tax would be simpler and even more profitable.

At this point, the American Chamber of Commerce in Moldova, in its address to the Governor of the National Bank, considers that the implementing of concept of reverse charge mechanism for supplies made in Moldova of pledged property, mortgaged property, sequestered and being declared in insolvency process is a revolutionary idea that requires a precautionary approach to both development stage mechanism and the stage of implementation of legal provisions and their application in practice.

Along with the potential benefit of revenue collection in the budget at chapter VAT, it is anticipated a number of significant costs expressed by economic and fiscal losses, resulting from delaying the revaluation process of pledge, increase of provisions, immobilization of additional financial resources that could have been injected into financing the real economy.

Therefore, it is considering premature the introduction of such innovations in the local tax system and the testing of reverse charge mechanism could be conducted under a pilot project, applicable only for supplies of sequestered property but unpledged and businesses property being declared in insolvency process. This would detect the legislative imperfections and non-compliance risks [9].

Along with the above remarks, the American Chamber of Commerce in Moldova presents a number of suggestions on the deficiencies of cited mechanism, such as:

„1. It is suggested applying the reverse charge mechanism only for deliveries of sequestered property in Moldova but not pledged and property of companies declared in insolvency process.

2. In the specialized literature the reverse charge mechanism is used by „simplified collection of VAT”. Usually, at application of the reverse charge mechanism (both participants registered as VAT payers) the buyer registers the amount of VAT, both as collected tax and as deductible tax, thus eliminating the settlements between participants and budget. The formula proposed by the author of the bill, to oblige the purchaser to pay separately the amount of delivery and the related VAT, is one that will discourage the purchase of such goods.

3. Eventually, at application of this mechanism in the case of sale of pledged property it is not clear the process regarding the obligation of paying the VAT if purchaser believes in good faith that there is no pledge (ex.: marketing pledged harvest) and there are circumstances in which virtue would have known about the existence of pledge”.

5. Conclusions

According to Romanian researcher Zaharia D., in the case of widening the spectrum of supplies and services for which the reverse charge is applied, the possibility of applying this mechanism can be very tempting for evaders, who will evaporate between intermediation chains. Amid falling sales, small and medium traders will be more willing to purchase goods from suppliers' phantom companies without documents.

Usually, these are newly established companies, which are losing after the due date of the debt to the budget, are not found at the headquarters declared on the documents, reflects fictitious payee on documents, unverifiable, or misleading information about them [15].

Of course, the reverse charge tax does not eliminate totally the frauds. Phantom companies can still interfere in the marketing chain, not in order to receive VAT illegally, but to large the margins of transactions, leading thus to inflate profits. It is true that the state collects taxes from these profits, just that they are not only a way of money laundering, their introducing in legal circuit.

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Rezumat

De-a lungul existenței sale, taxa pe valoarea adăugată (TVA) a influențat negativ activitatea economică a entităților și situația financiară a populației, reprezentând în același timp o sursă considerabilă de venituri la bugetul de stat.

În legislația Uniunii Europene (UE) există Directive care codifică dispozițiile de punere în aplicare a sistemului comun privind TVA, ce se aplică producției și distribuirii de bunuri și servicii în vederea consumului în interiorul UE. Aceste Directive, emise la nivel comunitar, nu se aplică direct, fiind transpuse în legislația națională a fiecărui stat membru.

Una dintre prerogativele de aliniere a Republicii Moldova (RM) la UE este îmbunătățirea legislației acesteia în conformitate cu prevederile și condițiile impuse de UE.

În acest fel, primul pas pentru RM în cadrul perfecționării sistemului de impozitare în conformitate cu cerințele legislative ale UE este îndreptat spre armonizarea legislativă a TVA la condițiile standardelor europene. În legătură cu cele sus-menționate, acest articol reflectă unele mecanisme de impozitare cu TVA în țările europene și modalitățile de punere în aplicare a acestora în practica fiscală și contabilă a RM.

Cuvinte-cheie: taxa pe valoarea adăugată, procurări, vânzări, buget, taxare inversă, obligațiuni de achitare.

Аннотация

На протяжении своего существования, налог на добавленную стоимость (НДС) сказывался на хозяйственную деятельность субъектов и финансовое положение населения отрицательно, в то же самое время, представляя значительный источник доходов в государственный бюджет.

Законодательство Европейского Союза (ЕС) включает Директивы, т. е. кодирующие положения по реализации общей системы НДС, применяемой в производстве и распределении благ и услуг для потребления в рамках ЕС. Данные Директивы, разработанные на уровне союза, не применяются непосредственно, а транспонированы в национальное законодательство каждого государства-члена.

Одна из задач приближения Республики Молдова (РМ) к ЕС заключается в преобразовании её законодательства согласно положениям и условиям выдвигаемым ЕС.

Таким образом, первый шаг по совершенствованию налоговой системы РМ, согласно правовым требованиям ЕС, направлен на гармонизацию законодательства страны по НДС с европейскими стандартами. В данном контексте, статья включает рассмотрение некоторых механизмов налогообложения НДС в европейских странах и способов их внедрения в налоговую и бухгалтерскую практику РМ.

Ключевые слова: налог на добавленную стоимость, закупки, продажи, бюджет, обратное налогообложение, обязательства по оплате.