

## Fiscal and Accounting Aspects Regarding the Tax Specific on Certain Activities

Cioca Ionela Cornelia  
„1 Decembrie 1918” University of Alba Iulia  
[cioca\\_ionela@yahoo.com](mailto:cioca_ionela@yahoo.com)

### Abstract

*The purpose of the paper is to analyze the new tax introduced from 1 January 2017 in the tourism, restaurants and catering sector, namely the tax specific on certain activities. The main objectives aimed were the theoretical presentation of the scope, taxpayers, as well as of its advantages and disadvantages for the paying entities. The case study presented provides an analysis of the tax specific on certain activities to be paid for a hotel located in Alba Iulia, Romania, compared to the income tax paid in the fiscal year 2016. The issues addressed are both from a fiscal point of view regarding its calculation and declaration, as well as the accounting method. The scientific approach is based on information from the national specialized literature, as well as from the practical documentation carried out through the case study presented.*

**Key words:** tax, tax specific on certain activities, profitability, accounting

**J.E.L. Classification:** D12, C58, G21

### 1. Introduction

Tax is a form of compulsory and unconditional collection of part of the income and wealth of individuals and / or legal entities, to the satisfaction of the general understanding of society (Risti, 2009, p. 27).

Taxes are the form of taking a part of the income or wealth of a natural or legal person, which is binding, is made in a non-reimbursable way and without direct contraption and in equal amount from the State "(Vintilă et al, 2013, p. 9 ).

According to the background and formality, the taxes are classified into two categories: direct taxes and indirect taxes. Direct taxes are the category of taxes that are nominally determined by individuals and / or legal entities, depending on their income or wealth, being cashed at certain specified deadlines (profit tax, income tax on microenterprises, income tax). Indirect taxes are levied on the sale of goods and services, paid to the budget of producers, traders or service providers, but borne by consumers of taxable goods and services due to the inclusion of such taxes in the commodity price or service tariff ( VAT, excise duties, customs duties) (Dănulețiu, 2016, p.83).

The changes in financial intermediation structures have extended considerably the access to financing and contributed to social welfare (Iuga, 2016, p. 556).

From January 1, 2017, a new tax category is introduced into the category of direct taxes, i.e. tax specific to certain activities.

The legislative route of this tax was a fairly long and intensely debated one. It was submitted to the Senate of Romania in October 2015, and in its initial form it also targeted microenterprises. After long debates, Law no. 170/2016 on the specific tax on activities that apply to businesses operating in the tourism, restaurants and public catering sector, and not to micro-enterprises (Popescu, 2016).

Taxes specific to certain activities are paid by Romanian legal entities that carry out tourism, restaurants and public catering activities depending on certain variables such as: the rank of the settlement, the useful area, the number of rooms, the seasonality.

To whom does this tax apply? What are the advantages and disadvantages of introducing this new tax? What will be the financial impact on state budget revenues? These are a few questions that we will try to find an answer to this article.

## **2. Taxes specific to certain activities: characteristics, taxpayers**

The beginning of the fiscal year 2017 brings a legislative novelty by introducing the tax specific to some activities. The legal basis is represented by Law no. 170/2016 on the specific activity tax and the order for the approval of the Methodological Norms for the application of Law no. 170/2016 on tax specific to certain activities.

According to Article 3 of the Law no. 170/2016 regarding the tax specific to certain activities, are obliged to pay this category of tax, the Romanian legal entities which on 31 December 2017 fulfilled cumulatively the following conditions:

1. Have registered in the instruments of incorporation as main activity or as secondary activity one of the following CAEN codes (Classification of Activities in the National Economy):

- 5510 - "Hotels and other similar accommodation";
- 5520 - " Accommodation facilities for holidays and short-term periods";
- 5530 - " Parks for caravans, camps and camps";
- 5590 - " Other accommodation services";
- 5610 - " Restaurants";
- 5621 - " Catering for events";
- 5629 - " Other catering services";
- 5630 - " Bars and other beverages".

2. Is not in a state of liquidation.

Thus, Romanian legal entities that meet the conditions listed above pay for this new tax category activities. The mere existence of these codes in the company's constitutive act is not enough for the application of this tax. Also, Romanian legal entities no longer apply this taxation system from the year following the year when they no longer fulfill one of the two conditions (Grama Cornel, 2016).

## **3. Fiscal aspects of tax on specific activities**

The Romanian legal persons had the duty to notify the territorial tax authorities by 31 March 2017 of the application of the tax specific to certain activities. If on 31 December 2017 no longer meet the conditions for the application of this tax, the notification of the bodies within the respective territorial area shall be made by 31 March of the following year. Taxes specific to certain activities are calculated, declared and paid half-yearly until the 25th of the following month.

Regarding the declaration of the tax specific to certain activities, this is done through Declaration 100 on the payment obligations to the state budget, as follows:

The screenshot shows the ANAF (National Agency for Administration and Fiscality) online portal. The main heading is "DECLARAȚIE PRIVIND OBLIGAȚIILE DE PLATĂ LA BUGETUL DE STAT" with a large "100" indicating the tax amount. The reporting period is set to "Anul 2017" and "Luna 05". The taxpayer's fiscal identification code (Cod de identificare fiscală) is "RO" followed by a series of empty boxes. The tax type is "130 - impozit specific unor activități". There are also options for "D100" and "D710" tax codes. The form includes sections for "A. Date de identificare ale contribuabilului/plătătorului" and "B. Date privind creanța fiscală".

The calculation of the tax specific to certain activities is based on certain variables. It is calculated differently according to the activity performed by the CAEN code (Classification of Activities in the National Economy).

When calculating the specific tax, taxpayers are obliged according to Article 12 (3) of Law no. 170/2016, to draw up the tax records register, which specifies the factors that are taken into account in determining the tax, such as: the types of activities carried out, the coefficients and the variables used for each activity subject to the specific tax, The number of units, the areas of activities, as well as tax depreciation.

Romanian legal entities paying taxes on certain activities must comply with the provisions of the Fiscal Code approved by Law no. 227/2015 regarding the calculation of tax depreciation and the calculation, declaration and payment of the tax on dividends. Regarding the recovery of tax losses, Law no. 170/2016 makes the following statement: "Taxpayers who were tax-payers specific to certain activities and who previously incurred a tax loss recover the loss from the taxable profits obtained over the next seven consecutive years from the date when they returned to the tax system regulated by Title II (Profit Tax) of Law no. 227/2015, as amended and supplemented. Tax loss is recovered in the period between the date of registration of tax loss and the limit of 7 years "(Article 9 of Law No. 170/2016).

If in the following fiscal year, the Romanian legal entities obliged to pay the specific tax no longer fulfill the conditions, they apply the system of declaration and payment of the corporation tax provided by Law no. 227/2015 regarding the Fiscal Code, as subsequently amended and supplemented.

#### 4. The advantages and disadvantages of tax specific to some activities

As a tax calculated on the basis of certain variables, it does not take into account the income and expenses of the paying legal entity, hence its profitability. Introducing this tax will bring financial difficulties for small entities that are likely to be forced to pay more than they were paying in the tax year 2016, whether we are talking about corporate income tax or corporate income tax.

The amount of the specific tax varies according to the area where the business is located, so four zones have been established with different coefficients:

- Bucharest and the 8 poles: Brasov, Cluj, Constanta, Craiova, Iasi, Ploiesti, Sibiu, Timisoara;
- Municipalities and cities;
- Tourist resorts of national interest;
- Villages, communes and tourist resorts of local interest.

The purpose of introducing this tax was to benefit those who have business in resorts and communes, where the tax is considerably inferior to those who carry out activities in Bucharest or large cities. There are also views that claim that investment will decrease due to the introduction of this tax, as restaurants and hotels of 3-4 stars, as well as those in tourist resorts of national interest, will pay a much higher tax compared to the ones in the years Past, and thus will not be able to invest in the quality of the products and services offered. As the new measures in force do not take into account the profits made or not by the entities concerned, it results that large businesses, that is, those units that have large spaces and have profitable profits, are advantaged, while small firms risk losing out (Popescu, 2017).

Taxes specific to certain activities apply only to tourism and catering companies that were paying tax on profits on 31 December 2016 and not micro-enterprises.

According to Article 6 paragraph 7 of the Law no. 170/2016, hotel taxpayers, apartment hotel, motel, tourist boarding houses, rural tourist boarding houses, tourist boarding houses, agritourist hostels, apartments for rent, youth hostels, bungalows, villas representing tourist accommodation structures Which are provided in buildings or buildings, which provide to tourists accommodation and catering spaces of the type of restaurant, bar, all of these specific services being activities of the same company which carries out the activity of accommodation, not being the object of renting or associating to / With other companies, determines the specific tax only for the accommodation activity.

In this case, those hotels, boarding houses and a restaurant and bar within the same hotel complex are very advantageous in terms of taxation, the taxation not being separate for each activity. However, taxpayers with multiple units determine the specific annual tax by summing the specific tax for each unit, calculated according to the formula set out in the appendix to the CAEN code, so only when there are several distinct units (Grama, 2016).

## **5. Case study: Comparative profit tax versus tax specific to some activities**

We continue to present a comparative analysis of the hotel tax due in 2016 and the specific tax payable for some activities due for 2017.

The comparative analysis presents tax issues, related to the calculation and declaration of the two categories of taxes, as well as the way of recording in the accounting of the respective entity.

The case study is a hotel with 3 star hotel located in Alba Iulia, Alba County, Romania. The main activity of the hotel is CAEN 5510 - "Hotels and other similar accommodation", and as secondary activities are: CAEN 5610 - "Restaurants" and CAEN 5630 - "Bars and other drinks".

The hotel has a restaurant with an area of 190 meters square, an area of 15 square meters and a number of 38 accommodation places.

### Calculation of profit tax for the year 2016

Because in 2017, the hotel's turnover was 2,290,000 lei (exceeding the 100,000 euro ceiling for microenterprises), the company is taxed on profit.

According to Article 19, paragraph 2 of the Law no. 227/2015 on the Tax Code, the tax return and the profit tax are calculated and paid quarterly cumulatively from the beginning of the fiscal year. This rule applies to the first three quarters, for the fourth quarter, it is calculated and a final tax is paid.

Thus, for the first three quarters, the entity calculates, declares and pays through Statement 100 on State Budget Payments, a tax amounting to 56340 Ron.

Until March 25, 2017, the entity had the obligation to determine the annual profit tax through the Corporate Tax Statement 101. The elements contained in Declaration 101 and the Fiscal Register which formed the basis of the determination of the final profit tax was:

- Total revenues: 3031000 Ron;
- Total expenses: 2413000 Ron;
- Tax deductions (tax amortization): 170000 Ron;
- Non-taxable income: 0 Ron;
- Non-deductible expenses (accounting depreciation, protocol expenses, sponsorship, fines): 31800 Ron;

- Taxable income: 479800 Ron;
- Profit tax: 76768 Ron;
- Profit tax for the year 2017: 75768 Ron (the amount diminished with sponsorship expenses in the amount of 1000 Ron registered by the entity);
- Difference in paid corporate tax = 75768 - 56340 (paid for the first three quarters) = 19428 Ron.

We can see that in 2016, the entity owed a profit tax of 75768 Ron. It was calculated taking into account the impact of tax deductions as well as non-deductible expenses incurred during the year 2016 on gross profit.

The accounting for the profit tax is made according to the following accounting formula:

<u>691</u> „Income tax expenses”	=	<u>4411</u> „Income tax”	75768
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#### Calculation of the tax specific to some activities for 2017

Having registered in the articles of incorporation as core business as well as secondary activities the NACE codes for which the specific activity tax was applied from 1 January 2017, the entity had the obligation to notify the territorial administration bodies of the application of this new tax.

Taxation of specific activities is declared through Statement 100 on payment obligations to the state budget, half-yearly.

The entity benefits from the facility provided by Article 6 (7) of Law no. 170/2016 on the specific tax on certain activities which states that if the hotels offer a restaurant, bar and accommodation within the same hotel complex, they will pay tax only for the accommodation activity.

Thus, for the year 2017, the entity will pay tax only for the 38 places of accommodation. The formula for calculating the tax is given in Annex 3 of Law no. 170/2016, namely:

$$\text{Annual specific tax / unit} = k * \text{number of Accommodation places}$$

Where: Standard specific tax - k - LEI / accommodation / year

Based on the value of the standard (k) standard tax for a 3-star hotel located in a city (224 Ron), there is a tax payable by:

$$\text{Annual specific tax / unit} = 224 * 38 = 8512 \text{ Ron}$$

These calculations regarding the method of determining the tax specific to certain activities are the same as for the calculation of the corporation tax in the tax records. Thus, the entity pays a tax of 8512 Ron. The payment of the tax is made half a half, i.e. 4256 Ron, until 25 July 2017, and the other half until 25 January 2018.

The accounting for the tax specific to certain activities is as follows:

<u>635</u> „Expenses with other taxes, fees and similar charges”	=	<u>446</u> „Other taxes, taxes and similar charges”	8512
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Due to the granted facility, the entity owes a specific tax to activities of 8512 Ron, much lower compared to the profit tax paid in 2016 of 75768 Ron.

The conclusion drawn from the analysis is that for this entity, the introduction of the tax specific to some activities represents a financial advantage paying a lower tax than that of 2016. This is due to the fact that the entity disposes of the same complex Restaurant, bar, and accommodation facility. The tax owed would have been different if the entity did not have in the same complex all the facilities offered, the number of stars, the rank of the locality, the surface, etc.

## 6. Conclusions

The hotel and restaurant tax, whose application rules have been recently made public, will stimulate investment growth in the opinion of hoteliers, and in others, it will have the opposite effect. Some say that those who are not good at the management will try to sell their assets and the market will remain high quality services, while others believe that the tax will disadvantage tourism business in relation to other types of business (Iancu, 2016).

The tax on certain activities is a tax that does not take into account the taxpayers' income and expenses, and therefore their profitability. This is a flat rate tax, calculated on the basis of certain variables such as the rank of the settlement, the area, the number of accommodation units, being a fixed fee, calculated according to certain mathematical formulas. Taxpayers will have cash flow difficulties and investment will continue to be reduced. Taxpayers with multiple units determine the annual tax by summing the specific tax for each unit.

Generally speaking, the tax specific to some activities is influenced by certain variables such as: hotel star rating, hotel / barrier area, town rank, seasonality, number of accommodation. In case of case study presented, the specific tax due to some activities owed by the restaurant for the year 2017 of 8,512 lei far lower than the profit tax paid in 2016 by 75,768 lei due to the fiscal facility offered.

The tax differences between the two categories of taxes refer to:

- calculation method;
- Declaration (Statement 101 - Income Tax vs. Statement 100 - Activity Tax);
- payment term: quarterly/yearly - profit tax and half-yearly - tax specific to certain activities;
- Legal basis: Law no. 227/2015 regarding the Fiscal Code - profit tax and Law 170/2015 - the tax specific to certain activities.
- accounting registration.

The similarity between the two categories of taxation can only be adapted from the fiscal point of view, namely: the drawing up of the fiscal record and the calculation of the tax depreciation.

A range of business services such as car vaultings, hairdressers and hairdressing salons could be taxed in the future on a useful commercial surface, not on profit, as it is today (Iancu Liviu, 2017).

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