



Important principles of the Romanian VAT system

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The Romanian value-added tax system (also called VAT) is often difficult to understand due to the underlying complex EU regulations. Nevertheless, it is based on a rigorous, solid, EU-wide harmonized, and logical structure that provides a consistent framework of interpretation. Below are several important principles and practical notes.

Taxable Persons

Both natural persons and legal entities, NGOs, and public authorities may qualify as VAT taxable persons. They are considered taxable once they regularly carry out supplies of goods or services.

If a person has a VAT identification number (VAT ID), this constitutes clear evidence of their status as a VAT taxable person. However, a VAT ID alone is not always sufficient to determine VAT classification: certain persons (e.g. small enterprises) may also be taxable without possessing such a number.

Whenever a regular activity is carried out, this opens room for interpretation. For example, if a person sells several properties or regularly offers goods or services on internet platforms, this indicates a degree of regularity that falls within the scope of VAT.

In practice, many underestimate the fact that recurring activities or reaching certain thresholds may make them liable for VAT and possibly subject to VAT registration.

The Romanian tax authority (ANAF) identifies such cases and, where necessary, claims retroactive payments, which can create significant problems for the persons concerned.

Taxable Transactions

Taxable activities include supplies of goods and services. Other transactions are also treated as supplies or services exclusively for VAT purposes — not from an economic perspective — through supplementary legal provisions.

A supply of goods exists when the right to dispose of goods is transferred. Mere transportation is not considered a supply for VAT purposes if no right of disposal over the goods is transferred. However, the withdrawal of goods normally intended for sale constitutes a transaction equivalent to a supply.

For VAT purposes, a “service” is anything that does not constitute a supply of goods. This includes many activities; even recharges/refactoring of costs or the provision of activities free of charge may qualify as service-like transactions.

Supply and service relationships, as well as the persons involved, must be precisely identified. They are subject to VAT even when entered into with persons from EU Member States or third countries — regardless of local practice and even if those persons do not apply VAT themselves.

The classification as a supply of goods or a service is decisive for determining the place of taxation.

Place of VAT

VAT is due in only one EU Member State. Determining the place of supply/service is decisive, since VAT arises in that jurisdiction. The rules differ for supplies of goods and services.

The place of supply of goods depends on the movement of the goods and the timing of the transfer of the right of disposal. Supply chains may be complex in practice; special rules apply, for example, to chain transactions, consignment stock, triangular transactions, processing chains, vouchers, and similar arrangements.

Determining the place of a service is based on two fundamental rules with numerous exceptions linked to different criteria and characteristics. In practice, determining the place of taxation may therefore be difficult.

The VAT status of the recipient of the service must be identified accurately. For this purpose, the recipient's VAT ID number and, where applicable, other supporting evidence are generally required.

In addition, the characteristics and context of the service provision must be identified, such as links to real estate, events, customs procedures, international trade, processing or transport chains, electronically supplied services, or free zones.

Incorrect determination of the place of a supply or service may, particularly in cross-border transactions, lead to the risk of paying VAT in the wrong EU Member State.

Practical Approach

The analysis of VAT liability in Romania (as elsewhere) requires the following checks:

- Is the supplier/service provider a taxable person?
- Does the activity constitute a supply of goods or a service?
- Is the place of supply/service located in Romania?

Only once it has been clearly established that VAT is due in Romania do further aspects become relevant, such as the person liable for the tax, the taxable amount, the applicable VAT rate, possible exemptions, as well as reporting and payment obligations.

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