

## CONTENTS ON THE CALCULUS BASIS FOR THE TAX ON PROFIT

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În articolul de față autorii se referă la stabilirea mărimii rezultatului final al unei entități economice, care se va realiza, mai întâi, prin înregistrarea curentă în contabilitatea acesteia a operațiilor ce privesc întreaga perioadă la care se referă, inclusiv evidențierea diferențelor în plus sau în minus constatate la inventarierea generală și ajustările pentru deprecierea pierderilor de valoare sau constituirea de provizioane. Apoi, se va întocmi balanța de verificare intermediară a conturilor sintetice și analitice, care permite controlul cu identificarea eventualelor erori de înregistrare și obținerea unor date certe pentru determinarea rezultatului brut al exercițiului. Astfel, cunoașterea rezultatului fiecărui exercițiu financiar încheiat constituie, pentru orice entitate economică, un obiectiv hotărâtor – obligatoriu. Punctul de referință în cunoașterea bazei de calcul a impozitării profitului pleacă de la determinarea rezultatului contabil brut, care se face prin metoda diferenței. Impozitul pe profit are ca bază de calcul rezultatul impozabil fiscal, care se obține prin corectarea rezultatului contabil brut cu cheltuielile nedeductibile din punct de vedere fiscal și cu deducerile fiscale.

In order to establish the **final result in strength** for an economic entity, first there will be estimated, by the current accountancy records, the operations which refer to the whole period in question, including the differences as sums or minuses observed in the general inventory or the adjustments for the depreciation of value losses or commissions. Then, there will be elaborated the balance sheet to check the synthetic and analytical accounts, which allows the control and identification of possible errors in the records and to obtain the gross results of this exercise [1]. Thus, knowing the result of each financial exercise is a must and a decisive objective for any economic entity.

The point of reference in the knowledge of the calculus basis for the profit tax starts from the estimation of the **gross accountancy result**, which is obtained by the method of calculating the difference. Applying this general estimation method allows obtaining a detailed result from the difference between the **incomes**, regardless of the source and the **expenses** made in order to obtain the former during a fiscal year. If the amount of the incomes is bigger than the amount of the expenses, then there is obtained the **net profit in accountancy**. The estimation formula is quite simple  $\text{INCOME} - \text{EXPENSES} = \text{PROFIT}$ , and in case the amount of expenses is bigger than the amount of incomes, then it results a **gross loss in accountancy** ( $\text{EXPENSES} - \text{INCOME} = \text{GROSS LOSS}$ ). According to the laws in force, the economic entities will record the profit or the loss established in a **cumulative method from the beginning of the financial exercise** [2]. In practice, the due tax on the profit is calculated and it is recorded every three months, following certain „steps or stages”.

During the first stage, there is determined the **the cumulated result in accountancy** from the beginning of the year (**the cumulated result in accountancy = cumulated incomes – cumulated expenses**). During the second stage, there is determined the **cumulated tax due result** from the beginning of the year (**cumulated tax due result from the beginning of the year + nondeductible expenses – tax free incomes – fiscal loss from previous years**). During the third stage, there will be calculated the **cumulated tax on profit**, from the beginning of the year to the end of the trimester (**tax on cumulated profit = cumulated tax due result x tax percentage**). During the fourth stage, there is determined **tax on profit estimated for the trimester** in question (**tax on trimester profit = tax on cumulated profit – due tax on profit cumulated at the end of the previous trimester**).

Depending on the fluctuations of the taxable result, from one period to the other or from a trimester to another, the positive difference from trimesters shows that there has been made a profit; if the result is negative, then there has been a loss for that trimester. The moment when from the gross profit in accountancy (bigger) there are taken out the expenses on the tax on profit (smaller), it results the **net profit in accountancy** (to be found in the credit balance of the profit and loss account). In case the amount of the incomes is smaller than the amount of the expenses, it results a **net loss in accountancy** (to be found in the debit balance of the profit and loss account).

As it can be noticed, the **tax on profit** has as basis for estimation the taxable fiscal result, which is obtained by correcting the gross result in accountancy with the **nondeductible expenses** from the fiscal point of view and with the **fiscal deductions** [3]. For the entities which have to pay tax on profit, the estimation

formula to be applied is **taxable result = result in accountancy + nondeductible expenses – fiscal deductions**. In other words, we should explain the contents of the **deductible expenses**; they refer to the consumption/expenses made in order to make taxable incomes, at the same time with **nondeductible expenses**. As a consequence, there should be known and clarified the contents of the three economic categories, very important for the estimation formula, which refers to: the result in accountancy (already explained), the deductible and nondeductible expenses, the fiscal deductions.

**The nondeductible expenses** represent that consumption of valuables which should not be **taken** into consideration when there is estimated the tax on profit. In the literature in the field and in the updated fiscal code, the main nondeductible expenses are numerous and they are categorised as follows: expenses on profit tax; fines, penalties, forfeiture, interest and delay increases due to the Romanian authorities, others than the ones mentioned in the economic contracts, protocol expenses which do not surpass the legal limits; sponsorship expenses made according to the law; expenses recorded in accountancy books which do not have justificatory documents; expenses from the non-taxable incomes; expenses regarding the contributions surpassing the established limits or which are not established by regulations; sums to be used to constitute or increase the reserves over the legal limits; expenses on travelling fares (given to the staff) in the country or abroad, which surpass a certain legal limit, established for the public institutions (2.5 bigger) in case the taxpayer makes profit in the current financial activity, if not limited to the usual level of these institutions; social expenses which surpass the percentage of 2% from the annual salary funds, according to the annual budget execution; other expenses on salaries or assimilated to salaries for which the tax is not due to the beneficiary (in case law does not stipulate such a situation); value of stocks or corporative assets which are missing from the inventory or are degraded, non-imputable, for which there were signed insurance contracts, including VAT resulting from these goods; perishable goods which surpass the legal limits; VAT resulting from the the goods offered to the staff in truck system, if there was not paid any tax retained from source; expenses made in the name of an employer on the retirement funds and the private health insurance policies, over the limit equivalent to 200 Euro in a fiscal year, for each participant; the expenses on the insurance policies paid by the employer on the name of the employees which are not included in the salary incomes of the employers; expenses on insurance policies which are not related to the taxpayer's assets, as well as those which are not related to the field of activity, except the ones related to the assets representing bank warranties for the current loans taken in order to undertake the economic activity authorised by the Register of Commerce under a code of the national economic activity (CNEA); expenses determined by the unfavourable differences in the value of the fixed assets, except the ones obtained from selling them; losses recorded as uncertain debts or in litigation, revenues which were not received, for the uncovered part of the commissions.

Also, the expenses with interest related to the loans from the authorised credit institutions are fully deductible in case the degree of indebtedness from owns capital is smaller or at least equal to three. The degree of indebtedness was estimated as a ratio between the sum borrowed for a period longer than a year and the value of own capital, as an average of the values from the beginning and the end of the period for which the tax on profit is calculated. Thus, if the degree of indebtedness is over three, the expenses on interests and on the net loss resulted from the currency exchange are nondeductible (the difference between the expenses and the incomes resulting from the currency exchange will fall under the deductibility limits used especially for the expenses in interests). The expenses on differences of currency exchange which are limited are the ones resulting from the loans considered by any economic entity when estimating the degree of indebtedness [4].

The expenses on the interest related to the loans obtained from other institutions than the authorised credit institutions are deductible within the following limits:

- a) Level of interest rate level given by the Romanian National Bank, for loans in lei;
- b) Level of annual interest rate for loans in euro which are updated by Government Directive.

**The nondeductible expenses** from the economic agents who invest in amortizable corporative assets and in patented inventions and who have not chosen the **regime of accelerated amortization**, can deduce the supplementary expenses on amortization representing 20% from their initial value; the amount remaining to be obtained during the exploitation period is equal to the inventory value (in accountancy books) diminished by the 20% deduction. This supplementary deduction is allowed for the following situations: 1) Acquisition of animals at the purchase date; 2) plantations at the moment of final inspections and acceptance; 3) other categories of assets at the date of bringing into function.

As a rule, the taxpayers who benefited from these facilities have the obligation to keep in their patrimony these corporative assets, for a period equal to at least half of their usual period of usage; the expenses on the

amortization in accountancy books, as well as the amortization supplement related to the corporative assets which were reevaluated.

In practice, the detailed explanations for these expenses are considered as paid or due sums: the stock consumption, works undertaken and offered services in benefit of the entity; expenses on the staff; execution of some legal or contractual obligations so on. In the expenses of the financial activity there are also included commissions, amortizations and other adjustments for depreciation or loss in value [5].

In the calculus basis for the tax on profit there are included the **fiscal deductions** which refer to **nontaxable incomes** as well as other elements which diminish the fiscal result. At present, the main financial deductions are the following:

1. The sums used to constitute and increase the legal reserves within the limit of 5% from the annual taxable profit, until the reserves reach 20% from the value of the social capital. If the legal reserves are used to cover the losses or are distributed under any form; the subsequent reserve recovery is no longer deductible from the calculus of the taxable profit;
2. Financial loss from previous years. As a rule, the financial loss is recovered from taxable profits during **five consecutive years**;
3. Dividends received from another Romanian juridical body;
4. Incomes resulted from the annulment or recovery of debts which were registered as nondeductible expenses from the adjustments when the deductions were not allowed;
5. Favourable differences in value of the registered shares, as a consequence of emission premiums as well as the differences in evaluation of the long term financial investments.

During the fiscal year when the calculus basis for the tax on profit is known and it is applied, all the taxpayers have the obligation to hand in the **tax declaration** before the payment deadline. Thus, the payment to the state budget of the tax on profit is to be done **until the 25th day of the month** following the trimester in question (and at the end of the year, **until the 15th of February**). Delayed payments of the taxes impose penalties (interest) estimated according to the due sum, the number of delayed days and penalty rate imposed by law.

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