
Study on the Vat Special Scheme for Travel Agencies and its Implications on Profitability

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Tax regulations in force regarding travel agencies allow professionals to control the size of VAT due to the State, but also on the accounting and tax results. Regarding the VAT, a travel agency may apply the normal or special tax scheme. The option belongs to it, with the following exceptions: it is obliged to apply the special scheme, according to Art. 152 point 1 of the Tax Code (i) when the traveller is an individual, (ii) in case when travel services also comprise components for which place of operation is deemed to be out of Romania. For example, travel packages sold by the travel agents, registered for VAT purpose, for the Romanian travellers left in the Community are taxable according to special tax rules, regardless of whether such tourist is taxable or not. If, however, tourism services are provided in the Romanian territory and invoiced to legal entities, acknowledgement of income is the consequence of tax regulations relating to the VAT scheme.

Keywords: *travel agency; tour-operator; traveller; travel packages; unique service; normal VAT scheme; special VAT scheme; tax base; corporate tax.*

JEL: K34 - Tax Law; M41 - Accounting

Introduction

In this article, it is hereby reviewed, through case studies, assessment of VAT settled with the state and, depending on the applicable VAT scheme, the assessment of tax result and corporate tax. We can talk, within legal limits of a creative accountancy, which has implications on the tax debts of the travel agency and also on state income. To understand the issue subject to our study, we'll start from some definitions:

TRAVEL AGENCY	
1)	<p>Government Ordinance 107/1999 on the marketing of tourist packages, travel agency, defines the travel agency as "any specialized unit, legal entity, who organizes, provides and sells travel packages or their components."</p> <p>According to Article 152 point 1 of the Tax Code, the travel agency is "any person who, on its own behalf or as agent, intermediates, provides information or undertakes to provide to people travelling by themselves or in group, travel services including hotel accommodation, guesthouses, hostels, holiday housings, villas and other spaces used for accommodation, air, land or sea transport, organized trips and other tourist services. Travel agencies also include tour- operators".</p> <p>Tour-operating and retailing travel agencies, in their capacity as taxable persons, registered for VAT purposes, conducting agency services in tourism, apply <i>either</i> the normal, <i>or</i> the special tax scheme.</p>

2)	<p style="text-align: center;">TRAVELLER</p> <p>is a beneficiary of the travel services and may act as:</p> <ul style="list-style-type: none"> (i) <i>taxable person</i> pursuant to Article 127, first paragraph of the Tax Code, i.e. a person who independently carries out business activities, regardless of the purpose or results of such activity (legal person, natural person, group of individuals, public institution); (ii) <i>another taxable person</i>, including any legal or natural person which does not comply with the requirements of Art. 127, first paragraph of the Tax Code, in order to be deemed taxable person;
3)	<p style="text-align: center;">TRAVEL PACKAGE</p> <p>Defined by the Government Ordinance no. 107/1999, it is the pre-established combination of <i>at least two of the following three groups of services</i>, provided that their uninterrupted period of time should exceed 24 hours, or to include a stay overnight, i.e.:</p> <ul style="list-style-type: none"> (i) transport; (ii) accomodation; (iii) <i>other services</i>, not related to transportation or accommodation or are not their accessories, which are a significant part of the travel service package, such as: public catering, spa schemes, participation in scientific, cultural, sports events, visits, recreation and the like.
4)	<p style="text-align: center;">UNIQUE SERVICE provided by the agency for the benefit of the traveler</p> <p>is the totality of transactions conducted in connection with the travel, agency acting in its own name, in the direct benefit of the</p>

traveller, by using goods delivered, as well as services supplied by others.

The unique service taxation place is Romania, if the agency is established or has a permanent establishment in Romania and the service is provided through it.

The normal VAT scheme may be applied by the travel agencies when service invoicing is made by the legal persons and the place of taxation is in Romania. This scheme allows the agency to invoice the amount of services and separately, the related VAT, as well as to deduct VAT on the purchase of goods / services that are parts of the travel package.

The special fee scheme provided for in Art. 152 point 1 of Chapter XII "Special schemes", of Title VI "Value Added Tax" of the Tax Code, representing the transposition of special scheme applied to travel agencies in the European Union, as it is regulated in Chapter 3, Title XII of Directive 112/2006.

Which are the features of the special scheme?

- a) Is the special scheme mandatory?

Special VAT scheme may apply either optionally, or mandatory. For example, special scheme should be applied when the traveler:

- is a natural person, no matter where it travels, either in Romania or outside its borders;
- is a taxable person, if travel services also include components for which place of taxation is deemed to be outside Romania.

- b) How to assess the tax base?

The tax base is represented by the profit margin. This is calculated as the difference between the total amount paid by the

traveler, without tax and costs of tourism services, including the tax, corresponding to the supply of goods and provision of services for the direct benefit of the traveler, but achieved by taxable third parties.

- c) How to calculate the fee collected?

As the profit margin so established, also includes the VAT, tax will be calculated using the following formula: $\text{Collected VAT} = \text{Profit margin including VAT} * 24/124$.

- d) Will the collected tax be included in the invoice?

In case the travel agency applies the special scheme, in all the invoices issued, it will not enter VAT separately and will make the mention "special scheme", under Article 152, point 1 of the Tax Code. Note that VAT chargeability occurs in the tax period in which all the elements necessary to assess the tax base are certain;

- e) How does the travel agency treat VAT included in the invoices received from the suppliers?

The agency is not entitled to deduct the VAT invoiced by taxpayers for goods or services making up the product / travel program.

- f) How to calculate VAT to be settled to the state budget?

From VAT collected tax, it is deducted only the tax related to administrative and household goods or services, as it is forbidden to deduct VAT related to the services purchased. If VAT collected is higher than the VAT deducted, then the agency will declare payable VAT and, in the reverse situation, VAT receivable.

- g) Is the travel agency obliged to keep separate accounts?

When the travel agency performs both transactions subject to normal VAT scheme, as well as transactions subject to special scheme, in order to determine the collected tax, it must keep separate accounts for each type of transactions (sales logs / detailed statement of receipts, separate for transactions to which the normal scheme applies and for those under special scheme, Art. 152, point 1 tenth paragraph of the Tax Code and section 63 (4) of the Rules.

h) How to determine the income of the travel agency?

Agency incomes are represented by the fee charged, equal to the profit margin, inclusive of VAT, from which the special tax collected will be deducted.

i) How will the result of the travel agency be assessed?

From the fee, exclusive of VAT, the administrative and household expenses will be deducted and the result prior to taxation will be established.

Case study no. 1: Services purchased by the agency are mixed

Suppose that the travel agency, who conducted the study, sells a travel package containing, on the one hand, taxable components and, on the other hand, VAT exempted components. It is obliged to treat invoices received from service suppliers as a whole.

The invoice issued by the traveler does not include VAT collected, but the entity calculates it. Therefore, at the time of invoicing, costs of services making up the travel package are known (contracts with suppliers have been already concluded).

In our case, the agency will invoice an intra-community travel package with two components:

- hotel accommodation, whose charge negotiated with the supplier is EUR 2.500, inclusive of VAT;
- external transport at a cost of EUR 1.200, exempted from VAT.

If we calculate separately, on components, the sale price would be: EUR 3.000 and for accommodation and EUR 1.500 for transport, resulting in a total sale price of EUR 4.500. We shall calculate the tax impact, according to the legal regulations in force.

• Sales price per package	4.500
(-) Total service cost for the travel package	3.700
= Profit margin (inclusive of VAT)	800
(-) VAT (800 *24/124)	155
= Agency fee (income; tax base)	645
(-) Corporate tax (645,16*16%)	103
= Result after taxation	542

Note that the total of tax payable amounts to EUR 258 (EUR 155 + EUR 103). We mention that, in order to ensure understanding, we used currency without converting it into RON and we have not taken into account the administrative and household expenses.

From the practice of travel agencies, we found that, for such cases, they will issue separate invoices for accommodation, for which they will due VAT on fee and separate invoices for the other VAT non-taxable components. This situation is misinterpreted by the travel agency management, pursuant to the provisions of the Tax Code, which leads to the following risks:

- erroneous reducing of VAT payable to the budget (by reducing the tax collected from the traveler);
- wrong increase in the corporate tax (by increasing fees acknowledged on account of income);
- operation can be considered a criminal offense, under Art. 9 of Law 241/2005 on preventing and fighting against tax evasion.

Resuming the previous example, it results as follows:

	Accomodation eur	Transport eur	Total eur
• Service sales price	3.000	1.500	4.500
(- Cost of service provided)	2.500	1.200	3.700
= <i>Profit margin (inclusive of VAT)</i>	500	300	800
(- VAT (margin *24/124))	97	exempted	97
= <i>Agency fee (gross income)</i>	403	300	703
(- Corporate tax (703*16%))	-	-	113
= Result after taxation	542		590

Note that, should the travel agency fails to comply with the tax law on VAT, by separate invoicing of components contained by a travel package, some of which are taxable and others are exempted, the total of tax payable is only EUR 210, resulting a difference of EUR 48 (generated by the wrong VAT underestimate of payable VAT by EUR 58 and overestimation of corporate tax by EUR10).

Case study no. 2: Services purchased by the agency are fully taxable

We further intend to review a travel package prepared on the territory of Romania, in which all components are taxable.

1. Option 1: Travel agency applies the special scheme according to legal regulations

Suppose that the travel agency who conducted the study, sells a travel package in Romania, the invoiced and collected sales price being RON 3.720:

Name of services invoiced to the traveller	Value	VAT
Travel package subject to the special tax scheme provided in Art. 152 point 1 of the Tax Code.	3.720	exempted
Total invoice	3.720	

Note that on the invoice, it is not entered VAT and mention “special scheme” is made. During the same month, it receives invoices as follows:

	Value in RON	VAT rate	VAT in RON
Transport services	650	24%	156
hotel accommodation services	1.000	9%	90
public catering services	500	24%	120
<i>Total services</i>	<i>2.150</i>		<i>366</i>
Total package costs, inclusive of VAT			2.516

Below is a list of administrative expenses, representing various expenses incurred by the travel agency, for which VAT has been deducted:

Name of services	Value in RON	VAT in RON
• electricity consumption	150	36
(+) water consumption	50	12
(+) office supplies	100	24
(+) space rental (exempted from VAT)	400	-
= <i>Total administrative expenses</i>	<i>700</i>	<i>72</i>
Total costs, inclusive of VAT		772

- which is the size of the profit margin, inclusive of VAT in the case of a single package?

• Sales price for the invoiced and delivered package	3.720
(-) Total services cost for travel package	2.516
= <i>Profit margin (inclusive of VAT)</i>	<i>1.204</i>
(-) VAT ($1.204 \cdot 24/124$)	233
= <i>Agency fee (gross income)</i>	<i>971</i>

(-)	Administrative expenses	700
=	Accounting profit prior to taxation	271
(-)	Corporate tax (RON 271*16%)	43
=	Result after taxation	228

➤ which is the size of the tax payable?

The size of the tax payable is RON 204, as shown in the following calculation:

•	VAT collected under special scheme	233
(-)	deductible VAT for administrative expenses	72
=	<i>VAT payable</i>	161
(+)	<i>Corporate tax</i>	43
=	Total of tax payable	204

2. Option 2: Travel agency is applying the incorrect scheme, normal scheme

If the travel agency would apply the normal VAT scheme, through separate invoicing of services (one invoice for each service, although, in fact, a single special invoice was needed to be issued, due to the fact that the requirements for recognition of a travel package are met), the sales price for the components of the package is RON 3.000, as follows:

	Name of services	Value in RON	VAT in RON
•	Transport services	850	204
(+)	hotel accommodation services	1.400	336
(+)	public catering services	750	180
Total		3.000	720
Total invoice		3.720	

➤ which is the size of financial indicators?

In this case, the size of the fee for each invoiced service, as well as the overall fee is calculated as below:

Items	Transport	Hotel accomodation	Public catering	Total
• Sales price	850	1.400	750	3.000
(- Direct costs of services)	650	1.000	500	2.150
= <i>Agency fee</i>	200	400	250	850
(- Administrative expenses)				700
= Accounting profit prior to taxation				150
(- Corporate tax (150 lei*16%))				24
= Result after taxation				126

- which is the size of the tax payable?

The size of the tax payable is RON 306, because, if normal VAT scheme had been applied, the travel agency would have deducted VAT related to the services acquired, as shown in the following calculation:

• VAT collected under normal scheme	720
(-) Deductible VAT (RON 366 + 72)	438
= <i>VAT payable</i>	282
(+) <i>Corporate tax</i>	24
= Total of tax payable under normal scheme	306

3. Conclusions of the study case no. 2

In the table below are found the accounting results after taxation, as well as tax liabilities incurred by the travel agency when using the two taxation schemes, as follows:

Crt. No.	Indicators reviewed	Special scheme	Normal scheme	Differences
A	B	1	2	3 = 1-2
1.	VAT payable	161	282	(121)
2.	Corporate tax	43	24	19
3.	Total of tax payable (3 = 1+2)	204	306	(102)
4.	Accounting income	971	850	121
5.	Expenses, inclusively corporate tax	743	724	19
6.	Accounting net income (6 = 4 - 5)	228	126	102

Conclusions

Following the studies conducted, it results a difference in the total amount of tax arrears, which means that change in the VAT tax scheme leads to the distortion of the size of income, corporate tax and VAT size, with corresponding consequences at the accounting and tax level.

Due to features existing in the typology of services from a travel agency, as well as from the need for a correct organization of obtaining tax and accounting information, accounting and tax scheme requires a high degree of complexity involving greater powers from the accounting department and entity managers.

Separate invoicing of taxable components, as well as those exempted from VAT leads to a decrease in the tax liabilities, as well as budget revenues.

Instead, separate invoicing of taxable components, with the agency fee included in each component, leads to an increase in the tax liabilities, as well as budget revenues.

If the travel agency would not be tempted to conceal its fee, including it in the package cost, or its components, a correct tax scheme consists in re-invoicing of services making up the travel package, with related VAT (as known, the standard VAT rate as from July 1, 2010 is 24%, while the reduced rate of 9% applies to certain goods and services, such as accommodation to tourist accommodation establishments and

breakfast served by the tourists in the hotel accommodation unit) and separately, the agency fee at the standard VAT rate.

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