ACCOUNTING AND TAX DEPRECIATION IN ROMANIA AFTER EU ADHESION

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Abstract:
Separating the accountancy from the taxation is an around the clock concern for the accountancy standard setters in Romania. The Romanian policy takers managed, at least for depreciation, to implement in the accountancy field new exclusive accounting concepts that are mainly deriving from the Order no. 3055/2009 of the Minister of Public Finance, regarding the accountancy regulations made according to the directives of the European Economic Community.
For financial reasons (calculating the taxable priority through the Taxation Code, The Ministry of Public Finance developed others regulations and norms regarding fiscal amortization, as well as the classification and normal function parameters of the long term assets. The authors of this paper draws the attention on the fact that, this time, there is the danger that even the accountants, by commodity, will use the fiscal norms even in accountancy.

Key words: *accounting depreciation, tax depreciation, linear depreciation, accelerated depreciation, digressive depreciation*

JEL classification: *M41*

1. CONCEPTS OF DEPRECIATION

Most fixed assets degrade over time and, as such, their replacement must be ensured. This is done usually by depreciation. Depreciation is therefore equivalent in value to an irreversible deterioration of assets as a result of the operation, the action of natural factors, technical progress or other reasons. The assets whose use is virtually unlimited in time are not depreciated, such as land or financial investments; any possible impairment of these assets is being covered by reserves (adjustments).

There are several views regarding depreciation:

According to the *economic concept* of depreciation, enterprises use the acquired assets to obtain economic advantages (benefits) over several periods. By virtue of commitment accounting and the financial separation, the entry (accounting) value of the asset must be ascribed so that each exercise bears a cost accordingly to the benefits obtained from using that asset.

According to the *financial concept*, depreciation is a method of recovering the invested capital. In this case, it becomes a sampling of the benefits and therefore it constitutes a resource to the company. The accumulation of annual depreciation must allow the replacement of assets that can not or should not (because of moral depreciation) be used. Thus, depreciation becomes an element of self-financing.

According to the *juridical- accounting conception*, depreciation is related to the patrimonial concept of the balance sheet. According to the French general accounting plan, depreciation is an "accounting notice of the diminishing value of an asset, resulting from the use, the passage of time, the change of technique or any other cause."

IAS 16 Tangible assets - defines depreciation as being the systematic allocation of the depreciable value of an asset over its useful life.

In the Romanian accounting, in present, it is noticed the stronger tendency to separate accounting from taxation. Therefore, for depreciation, there are used now two slightly different concepts:

1) accounting depreciation (provided by regulations with accounting character);
2) tax depreciation (provided by regulations with fiscal character).

2. ACCOUNTING DEPRECIATION

Accounting depreciation is the depreciation that is registered in accounting in the form of expenses determined according to regulations and accounting rules.

To realize an accounting depreciation we mainly need: accounting rules for accounting depreciation, a depreciation basis (depreciated value), depreciation schemes, as well as the depreciation time defined from an accounting point of view.

Legislation governing the accounting depreciation consists primarily of a series of laws of which, the latest is the OMFP no. 3055/2009 regarding the accounting regulations in accordance with the European Directives, applicable from January 1, 2010.

If we refer to depreciation duration, it should be noted that in the previous years, when international standards were the object of harmonization, it was indicated that during depreciation period it should not be exceed the useful life duration, synonymous with life duration in which it is estimated that economic benefits will be obtained.

In terms of accounting, the regulations according with the European directives place, as I found, a new concept, that of: economic use duration.

Within the meaning of regulations consistent with the European directives *"by economic use duration it is understood the useful life duration, this representing:*

a) the period in which an asset is expected to be available for use by an entity; or

b) the number of produced units or similar units that are expected to be obtained by the entity by using that asset[1].

Harmonized regulations establish different measures for the depreciation durations of tangible and intangible assets. If for the tangible assets the concept of economic duration was consecrated (as above), for intangible assets the amortization period is expressly provided in the legislative act.

Formation and development costs are recovered through their gradual inclusion in the cost of production (through linear depreciation) in a maximum period of 5 years.

Expenditures made with the acquisition and use of concessions, patents, licenses, know-how, trademarks, usufruct, are depreciated over the contract period or during use.

The commercial fund is depreciated, usually within a period not exceeding 5 years, or a longer period without exceeding the economic use duration of the asset, with the necessary rigor in the explanatory notes.

Software is depreciated over a period of 3 years.

Tangible assets are depreciated under normal operating times that are found in the "Catalogue of the classification and normal use times of fixed assets[2]", and the *depreciation for tangible assets that are leased, rented or on management location*, is calculated and registered in accounting by the entity that owns them.

The catalog includes the classification of fixed assets used in economy and their normal use times, which correspond to the depreciation times in years, related to the linear depreciation system.

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[1] OMFP 3055/2009 – art 68 alin.(3)

[2] last update on 5 August 2009

The ***accounting depreciation schemes*** lie in the content of Art. 112 from OMFP no. 3055/2009 which states that entities can depreciate tangible assts using one of the following depreciation schemes:

a*) Linear depreciation;*

b) Digressive depreciation

c) Accelerated depreciation

d) Depreciation calculated per unit of product or of service.

3. TAX DEPRECIATION

Tax depreciation is the depreciation determined according to regulations and tax rules to replace the accounting depreciation in calculating the income tax.

And to achieve a tax depreciation there are mainly needed: depreciation rules, depreciation value (base), as well as regimes and depreciation times. Art. 24 of the Tax Code [3]respond to them or it refers to other acts, as we will see when we will analyze the depreciation duration.

Tax depreciation relates primarily to the depreciation of fixed assets, a narrower category of tangible assets, being considered fixed assets, subject or complex objects are used such as they are and "meets cumulative the following conditions:

a) is held and used in the production, supply of goods or services to be leased to third parties or in administrative purposes;
b) has a higher entry value than the limit set by Government,
c) has a normal duration of use more than one year[4]."

For depreciable fixed assets the tax depreciation regime is determined according to the following rules:

a) for construction, the linear depreciation method is applied;
b) for technological equipment, machinery, tools and facilities, as well as for computers and their peripherals equipments, the taxpayer may choose for the to linear, digressive or accelerated depreciation method;
c) in the case of any other depreciable asset, the taxpayer can choose the linear or digressive method of depreciation.

Methods of depreciation under the Tax Code[5]:

1) **linear depreciation**, the depreciation is determined by applying the linear depreciation rate to the input fiscal value of the depreciable fixed asset. Linear depreciation is calculated by applying the annual rate of depreciation to the entry value of the tangible assets. The linear depreciation rate is calculated reporting the number 100 to the normal use duration of the asset.
2) **digressive depreciation**, in this case depreciation is calculated by multiplying the linear depreciation rates with one of the following coefficients:
    a) 1.5, if the normal use duration of the depreciable asset is between 2 and 5 years;
    b) 2.0, if the normal use duration of the depreciable asset is between 5 and 10 years;
    c) 2.5, if the normal use duration of the depreciable asset is more than 10 years;
3) **accelerated depreciation**, in which case depreciation is included in the first year of operation, in the operating costs of a depreciation with a rate of 50% of

[3] Law no. 571/2003 in accordance with law 24 of March 2, 2010 on the Tax Code with the methodological rules for application

[4] Tax Code art. 24 alin (2)

[5] Tax Code art. 24 alin. (7,8,9)

the tax value, and the annual depreciations for the subsequent financial year are calculated by linear method, dividing the remaining value to the remaining number of years of use.

Article 24 of the Tax Code also regulates tax depreciation amortization of intangible asset similar to the regulation of accounting depreciation (except the commercial fund, which is not depreciated in terms of tax).

In the case of financial leasing, the user is treated as an owner from a fiscal point of view, while in the case of operational leasing, the lesser has that quality.

The depreciation of property that is subject to a lease is made by the user in case of financial leasing and by the landlord in operational leasing; the expenses are deductible, according to art. 24.

Art. 27 refers to - Reorganizations, liquidations and other transfers of assets and equities, the tax value of an asset, a liability or a contribution title is the value used in calculating depreciation and gain or loss for the purposes of income tax or profit tax.

CONCLUSIONS

Separating accounting from taxation regarding depreciation is an important step in the elimination of taxation from accounting, but attention is drawn over the fact that, this time, there is a danger that, accountants themselves, for convenience, to introduce in accounting the fiscal rules.

By comparing the definitions of tangible assets and assets (fixed means), results the existence of tangible assets with an input value lower than the limit set by Government, for which "*the taxpayer may choose to deduct expenses relating to the asset or to recover these costs through depreciation deductions*"[6].

In our opinion the choice of deducting depreciation expenses for these assets (inventory items) leads to a differential treatment of depreciation expenses, respectively, *in accounting provisions there are deductible expenses when calculating the profit*, and *in the tax provisions there are nondeductible expenses when calculating profit*, which would harm the unitary nondeductible treatment of depreciation accounting.

REFFERENCES

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[6] Tax Code art. 24 alin. (17)