FISCAL IMPACT OF FIXED ASSETS ASSESSMENT AND RE-ASSESSMENT IN ROMANIA

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Abstract: At the same time with its adhesion to the European Union, Romania had to fall in line with the provisions of the Union treaties, both in terms of politics and economics. Among the last there is also the provision that the fixed assets part of the patrimony of an economic entity be recorded at their market (just) value. For this, amendments were brought to the Tax Code which specifies, according to the value established on the basis of an assessment or even a re-assessment, the taxation of such fixed assets and the fiscal deducibility of the value resulted subsequent to the assessment and re-assessment activity. Our work tries to introduce some aspects related to the taxation and deducibility of the expenses generated after the establishment of the fixed assets market value.

Keywords: assessment, re-assessment, taxes, deducibility, expenses

I. Introduction

Property evaluation and reevaluation represents specific activities of a certain professional category, which is Asociaţia Naţională a Evaluatorilor din România (*National Association of Romanian Evaluators*). The specialized evaluators for evaluating and reevaluating properties are named "real estate property evaluators".

The Fiscal Code (Law no. 571/2003 with its subsequent amendments and additions) refers to property taxation belonging to both natural and legal entities.

During our scientific undertaking, we will refer to tangible assets belonging to legal entities.

II: Research methodology

The scientific research methodology used in this paper fits into the principle of unity between quantity and quality research, giving a bigger emphasis on quality research. With the support of conventional scientific research tools, based on analysis and synthesis, I tried to analyze taxation as a result of evaluation and/or reevaluation of tangible assets.

III. Property taxes

Buildings and land lots are assets that need evaluation and/or reevaluation.

According to the Fiscal Code, buildings are defined as follows: “a building is any construction located above ground and/or below it, irrespective of its name and use, which comprises one or more rooms serving as a shelter for people, animals, objects, goods, materials, installation, equipment and other similar purposes, and its basic structural elements include walls and roof, irrespective of the material in their composition. A room is a space within a building.” (Art. 294, paragraph (5)).

Land lots are specified in Art. 256, paragraph (1): ”any person owning a land lot in Romania owes an yearly tax for it, except for the situations where the present title states otherwise.”

These assets are taxed according to their community and area status, as well their location, within or outside built-up areas, in case of land lots.For the purpose of taxing buildings according to the market value (fair value), the Fiscal Code provides building evaluation and reevaluation, and tax is established depending on the delivered value.

Legal entities are recommended to evaluate their assets, in order for local authorities to tax them, as well as in order to own higher capitals in case of bank loans, since banks request it for guarantee purposes.

Even though a building is fully paid off, a tax is still paid for it according to the following provision of the Fiscal Code: “building taxes are applied for any building, property of a legal entity, whether operational, in state of conservation or reservation, even if its value was fully recovered through depreciation."(Art. 253, paragraph (8)). At the same time, in this situation the taxable value of the building decreases by 15%.

As stated above, building taxes are calculated according to several criteria: community status, building area, if reevaluated etc. In case of legal entities, building tax is applied by using a proportional rate over the building stock value. In this case, the proportional rate varies between 0.25% and 1.5%, according to Art. 253, paragraph (2) of the Fiscal Code.

If buildings are not reevaluated, the building tax value is the following (Art. 253 paragraph (6)):

a) 10% and 20% for buildings missing reevaluation during the last 3 years prior to the reference fiscal year;

b) 30% and 40% for buildings missing reevaluation during the last 5 years prior to the reference fiscal year**.**

These proportional values also apply to the stock value of buildings belonging to commercial companies.

For the purpose of establishing building taxes, the expression "building stock value" refers to the building original cost, registered in the owner's accounting books, and it can be:

a) purchase cost for buildings acquired by onerous title;

b) production cost, for buildings constructed by the legal entity;

c) current value, assessed when registered in the asset list, considering building rates with similar or related technical and economic features, for buildings acquired by gratuitous title;

d) contribution value for buildings included in the asset list through association/merge, determined by assessment, according to the law;

e) value resulting from reevaluation, for buildings reevaluated subject to a legal disposition;

f) in case of legal entities implementing the Accounting Regulations in agreement with The Fourth Directive of EEC, building taxes are calculated by applying the tax rate on the building stock value. According to A**rt.** 253, paragraph (3) of the Fiscal Code, the building stock value represents the original building cost when included in the asset list, registered in the owner's accounting books, a value that does not decrease together with the calculated depreciation according to the law, except for buildings where their value was fully paid off by depreciation, and for which the law states a 15% reduction of their taxable value;

g) in case of credit institutions implementing the International Financial Report Standards that choose cost-related pattern as their evaluation method, taxable value of buildings owned by these institutions consists of the value resulted from the evaluation report issued by an authorized evaluator, submitted to the specialized department of the local public administration authority. (Art. no. 253 paragraph 2(1) of the Government Decision no. 44/2004 regarding Methodology norms for Fiscal Code implementation).

IV. Fiscal impact of property evaluation and reevaluation

Local taxes due as a result of implementing the rates listed in the previous chapter are financially deductible for economic companies.

In return, accounting registration market values obtained as a result of evaluation and/or reevaluation may generate non-deductible expenses increasing the taxable amount for profit tax calculation. Therefore, if an evaluation and/or reevaluation determines a lower value than the stock value, then the difference between stock value and market value represents a non-deductible expense leading to an increased taxable value for the commercial company.

At the same time, beginning with 2016, the Fiscal Code enforces mixed taxation of properties including also registered offices of legal entities. This taxation provides a restriction of the area used as registered office or operating location of a commercial company and the residential area (or living area) of the respective properties. This situation also determines the conditions of reevaluating the respective properties after 3 years, according to the current provisions of the Fiscal Code.

Conclusions

The fiscal impact regarding deductibility of local taxes generated by properties included in the asset list of legal entities may seem insignificant, but the price forming market should not be underestimated, a market depending on many factors including economic conditions, exchange rate and, last but not least, offer and demand of this market.

During the last few years, many situations appeared, similar to the one presented in the previous paragraph, that generated non-deductible expenses for commercial companies. This aspect appeared as a consequence of the property boom during 2008-2009, when all property markets simply exploded, and during the following years their prices began to decrease, leading to market values lower than the ones of 2008-2009.

BIBLIOGRAPHY:

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