

THE ASSIGNMENT OF CLAIMS IN APPLICATION OF VAT COLLECTION SYSTEM

BENGESCU MARCELA¹ BENGESCU RALUCA²

¹ University of Pitești, ² SCA Dragomir și Asociații

Abstract: *The paper summarizes the theoretical concepts on assignment of claims and also its accounting and fiscal treatment. In order to apply these rules, was drawn up a study case of a legal person registered in VAT purposes which applies “the VAT collection system”. To demonstrate the way of solving the approached issue, references were made to the legislation in force.*

Key words: *assignment, claims, VAT, nominal value, sale price.*

INTRODUCTION

The VAT collection system is applicable starting with January 1st, 2013 by the taxable persons VAT registered, headquartered in Romania, which performed a turnover exceeding 2.250.000 lei between 01/10/2011-30/09/2012, determined in compliance with the Fiscal Code.

The VAT collection system is governed by the rule stating that VAT is collected on the receipt of the sale invoices, but no later than 90 calendar days from the date the invoices were issued and the deduction of VAT related to purchases may be made only when the invoices are paid.

According to the legal definition provided by art. 134² par. (3) of the Fiscal Code, the term « receipt » means « any method by which the supplier / provider gets a counter-service for these operations from the beneficiary or a third party, such as payment in cash, payment in kind, compensation, assignment of claims, the use of payment instruments ».

MATERIALS AND METHODS

Our purpose is to explain, academically, the receipt method consisting in the assignment of claims. The main legal basis is the guide on applying the VAT collection system, approved by ANAF Order no. 1519/2012.

In case of assignment of claims, three parties are involved: a) the supplier of goods and services, b) the recipient (buyer) of goods and services, c) a third person.

In practice, frequently, the assignment of claims is based on the existence of a previous commercial relationship between supplier and customer. The supplier does not recover the payment from the beneficiary. He enters into a contract of assignment of claims with a third party. In an assignment of claims agreement, the supplier, as the seller of the claim, is referred to as “the Assignor” and the third party, as purchaser of the claim, is referred to as “the Assignee”.

In this kind of situation, the fiscal rules provided by paragraph 12 letter a) from the Guide approved by the Order 1519/2012, shall be applicable.

Chart no. 1

The Assignment performed by the supplier of goods and services

The Assignor	The date of claim's receival and of the VAT collection	The Beneficiary
Taxable person which applies VAT collection system	If the assignment happens before the expiration of the term of 90 calendar days since the invoices' issuance, the date of receival and collection of VAT will be considered as the date of the assignment of claims, regardless of the purchase price.	Deducts the VAT when paying the Assignee

Note: "In case the invoice was not issued within the term provided by law, the tax related to the unpaid value becomes due in the 90th-calendar-day deadline provided by law to issue the invoice, calculated in accordance with the Civil Procedure Code" (art. 134² para.5 of the Fiscal Code)

Another aspect envisaged by the legal provisions is when the beneficiary transfers to the supplier, as payment, any claim, inclusively the assignment of the VAT reimbursement right provided by art. 30 of the Fiscal Procedure Code.

In such situation the fiscal rules provided by para. 12 letter b) from the Guide approved by the Order no. 1519/2012 are applicable.

Chapter no.2

The Assignment performed by the Beneficiary towards the Supplier

The Assignor is the Beneficiary of the purchased goods and services	The date of VAT deduction	The Assignee is the supplier of the goods/services using the VAT collection system
Taxable person applying VAT collection system	The above mentioned date is the assignment date of other claims, inclusively of the VAT reimbursement right, according to art. 30 of the Fiscal Procedure Code. Deductible VAT is	Collects VAT according to the assigned claim and the unpaid difference becomes due in the 90 th calendar day.

	calculated by subtracting it from the claim's value, and the difference shall be deducted when it will be paid.	
--	---	--

RESULTS AND DISCUSSIONS

Company A applies VAT collection system. On February 15th, 2013 the Company issued an invoice for the services delivered amounting to 24.800 lei (VAT of 24% included) to Company B. On March 20th, 2013, Company A assigns to company C the claim related to this invoice which is not collected from the beneficiary B. The assignment price is 18.000 lei and it was cashed in on April 29th, 2013.

In the assignor's accounting, the company A:

No.	Explanations	D	=	C	Amount
1.	15/02/2013 Invoice	4111	=	%	24.800 lei
				704	20.000 lei
				4428	4.800 lei
2.	20/03/2013 Assignment of claims	%	=	4111	24.800 lei
		461			18:000 lei
		654			6:800 lei
	VAT	4428	=	4427	4.800 lei

In the assignee's accounting, the company C:

No.	Explanations	D	=	C	Amount
1.	20/03/2013 Assignment of claims	461/B	=	%	24.800 lei
				462/A	18.000 lei
				7588	6.800 lei
2.	29/04/2013 Receival	5121	=	461/B	24:800 lei
3.		462/A	=	5121	18.000 lei

In the beneficiary's accounting, the company B:

No.	Explanations	D	=	C	Amount
1.	15/02/2013 Invoice	%	=	401	24.800 lei
		628			20.000 lei
		4428			4.800 lei
2.	29/04/2013 Payment to C	401	=	5121	24.800 lei
3.	29/04/2013 VAT Deduction	4426	=	4428	4.800 lei

Case study for the application of the fiscal rules (para.12 letter b from the Guide)

Company B, which uses the VAT collection system, delivered on February 10th 2013 to company A, goods having VAT of 9% in amount of 218.000 lei, including VAT. On May 10th 2013 the company A assigned to company B its reimbursement right in compliance with art. 30 of the Fiscal Procedure Code, in amount of 200.000 lei; the difference of 18.000 lei shall be paid by bank transfer on June 20th 2013. On assignment date, respectively on May 10th 2013, it is considered that company A has paid, and company B has collected the sum of 200.000 lei as per the invoice in amount of 218.000 lei.

In the assignee's accounting, the company B (as supplier):

no.	Explanations	D	=	C	Amount
1.	10.02/2013 Invoice	4111	=	%	218.000,00 lei
				701	200.000,00 lei
				4428	18.000,00 lei
2.	10/05/2013 Assignment of claims	4424	=	4111	200.000,00 lei
3.	10/05/2013 VAT 9% calculated 200.000 lei	4428	=	4427	16.513,76 lei
4.	13/05/2013 90 days from the invoice date	4428	=	4427	1.486,24 lei
5.	20/06/2013 The receival of the difference in amount of 18.000 lei	5121	=	4111	18.000,00 lei

In the assignor's accounting, the company A (as beneficiary):

No.	Explanations	D	=	C	Amount
1.	10/02/2013 Invoice	%	=	401	218.000,00 lei
		371			200.000,00 lei
		4428			18.000,00 lei
2.	10/05/2013 Assignment of claims	401	=	4424	200.000,00 lei
3.	10/05/2013 VAT 9% 200:000 /109% x9%	4426	=	4428	16.513,76 lei
4.	20/06/2013 The payment of the difference amounting to 18.000 lei	401	=	5121	18.000,00 lei
5.	20/06/2013 the deducted VAT from the amount of 18.000 /109x9	4426	=	4428	1.486,24 lei

In order to argue the manner in which the exercises were solved, the following aspects provided by the fiscal and accounting legislation must be taken under consideration:

- The company's claims/debts towards third parties, other than its staff, customers and suppliers are recorded in the accounts of diverse debtors/creditors, according to point 206 of Order no. 3055/2009
- In case of assigning a claim, the difference between the claim transferred by assignment and the amount to be paid to the assignor, represents an income on the date of attesting the rights and obligations, in compliance with the agreement's terms and conditions (point 190 from the Order 3055/2009);
- The assignment of claim is exempted of VAT if the assignor acts as a creditor and buys the claim without applying charges for the recovery (GO 50/2012)

CONCLUSIONS

- The first analyzed case depicts the assignment of claims involving three taxable persons : the supplier of goods and services (acting as « the assignor ») does not recover the claim from the beneficiary and proceeds with its assignment to a third party, called « the assignee » ;
- In this situation, if the supplier uses the VAT collection system, the VAT shall be collected on the date of the claim assignment ;
- The beneficiary of the goods and services is entitled to deduct the VAT on the date of the payment towards the assignee.
- The second case analyzes the situation when the beneficiary of goods and services acts as the assignor, transferring to the supplier of goods and services a different claim, including the right of VAT reimbursement;
- In this situation, the supplier, as assignee, collects VAT when the claim is received, the collected VAT being calculated in ratio to the value of the claim, object of the assignment;
- In both cases, VAT becomes due when the assignment of claim was concluded, if this occurs within the term of 90 days from the issue of the delivery invoice.

REFERENCES

1. **BENGESCU MARCELA, BONDOC MARIA DANIELA, ȘERBAN C., ȘERBĂNESCU LUMINIȚA, TAICU M., 2012**, Aspecte teoretice pentru examenul de licență, Sitech Publishing, Craiova.
2. **PANĂ I., BENGESCU MARCELA, BONDOC MARIA DANIELA, ȘERBAN C., ȘERBĂNESCU LUMINIȚA, TAICU M., 2011**, Cunoștințe economice fundamentale și de specialitate pentru examenul de licență, Sitech Publishing, Craiova
3. **POPA A.F., POPA N., 2008**, Impozitele și taxele reglementate de Codul fiscal, Contaplus Publishing, București
4. **RĂILEANU VASILE, RĂILEANU ADRIANA SOFIA, 2009**, Abordări contabile si fiscale privind impozitele si taxele, Editura Economică, București.
5. *******, The guide on applying the VAT collection system, approved by ANAF Order no. 1519/2012.