

TAXATION AND ACCOUNTANCY OF INCOMES FROM REAL ESTATE LEASES

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***Abstract:** In this paper we are aiming at analysing the relationship between the number of rental agreements and the category in which the incomes from rents are included. The taxpayer is a natural person who owns the real property constituting the object of the rental agreement. There are two kinds of incomes a) from the assignment of the use of the goods and b) from self-employed activities. For the first category of incomes, the tax is calculated by applying the 16% flat rate to the net income. The net income is obtained by deducting, from the gross income, the expenses calculated based on the 25% flat rate. The total deductible expenses also include the 5.5% contribution to social health insurance fund applied to the net income or to a recalculated basis that may not be lower than the minimum national salary corresponding to the rental agreement validity term.*

Key words: lease agreement, income from leases, tax, single-entry bookkeeping, double-entry bookkeeping

INTRODUCTION

According to the provisions of art. 61 of the Fiscal Code, incomes from the lease of goods are classified as follows: a) incomes obtained from rental and leasing of own property; b) self-employment incomes. The first category includes the incomes obtained from a number of agreements ranging from 1 to 5. The second category includes incomes obtained from more than 5 lease agreements. **One of these two categories includes the incomes earned by taxpayers who rent rooms in their houses for tourism purposes. The inclusion in one of these categories is made according to the number of rooms: in the first income category for a number between 1 and 5 rooms; and in the second category of incomes for more than 5 rooms.**

MATERIALS AND METHODS

For the purpose of art. 62 of the Fiscal Code, the taxable income is referred to as net annual income. For each category of incomes (from rental and leasing of own property, and self-employment activities) different rules are applicable in order to determine the net annual income. In this paper, we aim at analysing the case of incomes from the rental of own goods other than agricultural lease and tourism activities.

There are two taxation systems:

- The flat tax rate system;
- The real system based on data from single entry bookkeeping.

The single entry bookkeeping consists of keeping an Income and Payment Log and an Inventory Register. As a novelty, from 2015, taxpayers who earn incomes from leasing and renting activities may choose to use the double-entry bookkeeping, without having the obligation of submitting annual financial statements. Another novelty is the Tax Register

which is mandatory for taxpayers who choose to determine their net income in the real system.

The gross income from the lease and rental of own property is determined according to the agreement concluded between the parties, for each financial year, regardless of when they are collected. The gross income is increased by the value of the expenses which lie, under the legal provisions, on the legal owner, if they are incurred by the other contracting party. The net income from rental and lease activities is determined by deducting from the gross income the expenses established under the flat tax rate system by applying the 25% rate to the gross income. **$V_{ncf} = V_b - 25\% V_b$; $V_b = \text{gross income}$**

$V_{ncf} = \text{net income from the lease of the goods}$

According to the methodological norms for the application of the Fiscal Code, the deductible expense related to the income, determined as a 25% flat tax rate applied to the gross income, represents the tear and wear of the goods rented, and the expenses arising from their maintenance and repair, as well as property owner's taxes and duties due in compliance with the law, the fee retained by brokers, and insurance premiums paid for the leased goods. For all these expenses, the owner does not have the obligation to submit supporting documents. Taxpayers for whom expenses are determined under the flat tax rate system may choose to determine the net income under the real system. This option may be exercised by submitting a statement concerning the estimated income /the income tax bracket filled in for this purpose. This statement is submitted with the competent tax authority by 31 January for the current financial year.

In the cases where the net income is determined under the real system, based on the data from single entry bookkeeping, the following calculation formula is used:

$V_n = V_b - C_d$; $V_n = \text{Net income}$; $V_b = \text{Gross income}$; $C_d = \text{deductible expenses}$

The natural persons who earn incomes from lease and rental of own goods have the obligation to register the lease agreement with the tax authority, within 15 days from the date when the agreement is signed by the parties. When the agreement is registered, the Statement concerning the estimated income/ the income tax bracket filled, hereinafter referred to as Form D 220 is also submitted. Based on the data in Form D220 the competent tax authority issues the Decision on advance tax payments/contributions to the health insurance fund, as well as obligations to pay social insurance contributions". This decision is a tax administrative document. The taxpayer has the obligation to make the advance payments on a quarterly basis, namely by the 25th day of the last month of each quarter. For the last month of the year, the payment day is 21st December. In the cases when the taxpayer chose to determine its tax under the real system, he/she has the obligation to submit the Income statement, hereinafter referred to as Form D200. The submission deadline for this form is 25th May of the year following the year when the income was earned.

Form D200 is also submitted by: a) taxpayers who earn incomes from lease and rental of own goods who have submitted statements concerning the estimated income in December and for whom no anticipated payments were determined, in compliance with the law; b) taxpayers who earn incomes from lease and rental of own goods, based on agreements concluded between the parties in which the rent is mentioned in RON, whose taxation is final, for the cases where changes in the agreemental clauses occur, when advance tax payments will be taken into account in the determination of the annual tax due.

Following the processing of the data specified in Form D200, the competent tax authority determines the income tax due and issues the Annual Taxation Decision. The difference between the income tax due and the tax paid in advance is subject to settlement and should be paid within 60 days from the day when the taxpayer is notified thereof.

For the incomes from renting and leasing own goods, the contribution to the social health insurance fund, hereinafter referred to as CASS, must also be paid. CASS is paid in advance, in the course of the year, and the amounts due are settled on an annual basis, as the case may be, depending on the minimum and maximum thresholds. The monthly contribution cannot be lower than 5.5% of the national minimum gross salary, if the income earned from leases is the only one for which CASS is paid (minimum threshold) and cannot be higher than 5.5% of 5 average gross salaries either (maximum threshold).

The calculation base for CASS is the net income. The contribution is calculated by the tax authority based on the reference data specified in the estimated income statement (Form 220) and in the realized income statement (Form 200) and it is notified through taxation decisions. The contribution to the social health insurance fund is included in the deductible expense category, regardless of taxation method (in real system or by using flat tax rates).

RESULTS AND DISCUSSIONS

In relation to the application of the rules provided in the taxation laws, we will analyse the case of a natural person who earns incomes from leasing own real estate constituting the object of two lease agreements.

The lease agreements were signed by the parties on 15/05 year N. The monthly rent is 800 RON, and 1,000 RON, respectively.

The landlord is a natural person and therefore has the obligation to submit, by 30/05 year N, with the competent tax authority, the lease agreements, the document proving that he owns the real estate, his identity document and the Estimated Income Statement filled in, in two original copies for each agreement. For the first agreement, the estimated incomes are $400+800 \times 7=6,000$ RON.

For the second agreement, the estimated incomes are $500+1,000 \times 7=7,500$ RON. In the first quarter of year N, the national minimum salary is 800 RON. In the second quarter of 2 year N, the national minimum salary is 850 RON. The tax liabilities related to each lease agreement can be seen in Table no.1

Art. 64¹ of the Fiscal Code stipulates rules related to the recalculation of the income made from lease of own property.

According to these rules, the competent tax authority has the obligation to determine, on category of incomes from lease of own property, the annual income realised, the amount of the net annual incomes, with the propose of applying the provisions related to the verification of the inclusion into the threshold corresponding to the respective financial year, for the contribution to the social health insurance fund.

Table no. 1

The tax liabilities related to each lease agreement

It. no.	Agreement	Incomes	Lump expenses 25%	Net income recalculated for the CASS calculation base	CASS 5.5%	Annual net income	Income tax 16%
(1)	(2)	(3)	(4)	(5)	(5)	(7)=(3)-(4)-(6)	(8)=16% x(7)
1.	No. 1	6,000	1,500	6,300	347	4,153	664
2.	No. 2	7,500	2,000	6,300	347	5,153	824
Total		13,500	3,500	12,600	694	9,306	1,488

Table no.2

The schedule of payments

Data	CASS	Tax	Total
25/06/year N	231	496	727
25/09/year N	231	496	727
21/12/year N	232	496	728
Total	694	1,488	2,182

CONCLUSIONS

The income from leasing own property, which does not include agricultural leases and leases for tourism purposes, is determined based on the following principles:

- By applying the 16% tax rate to the net taxable income;
- The net taxable income is calculated as the difference between the gross income and the expenses determined under the 25% flat tax rate system, or in the real system, based on the bookkeeping data;
- The expenses determined under the flat tax rate system do not have to be proved with supporting documents;
- In the case of taxation under the flat tax rate system, the gross income is the income from rents, regardless of the date when they are collected, and the accrual accounting principles are applied;
- In the case of taxation under the real system, based on single entry bookkeeping, the gross income is determined based on the cash accounting principles, in other words, depending on the date when the income is collected;

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