Collecting the tax on Income from Investments and Income Statement

Assoc. prof. Raluca Andreea MIHALACHE PhD
„Artifex” University of Bucharest

Abstract

Taxpayers who carried out individually or in a form of association income from self-employment, income from the lease of property, income from agricultural activities determined in real system are required to file a statement of income received from the competent tax authority for each fiscal year no later than 15 May of the year following that of income. The statement of income (tax declaration) must be completed for each source and category of income. For the income obtained in a form of Association, stated income will be the loss of net income distributed from the association.

Key words: tax system, fiscality, fiscal regulation, fiscal system, accounting methods, Financial Supervisory Authority

JEL: H20, H32, G3

According to the tax code, the rate of tax is 16% and applies to the taxable income corresponding to each source in each category to determine the tax on the income from:

(a) self-employment;
(b) wages and salaries;
(c) the lease of property leasing);
(d) investments;
(e) pensions;
(f) agricultural activities;
(g) awards;
(h) other sources.

In the form of dividend income, including amounts received as a result of holding equity closed end funds, are required with a share of 16% of their amount. The obligation of calculating tax withholding tax on income and in the form of dividends is for legal persons, the payment of dividends to the shareholders or members. Remittance of tax period is not later than the 25th of the month following the month in which payment is made. In the case of dividends distributed but who have not been paid to shareholders or members by the end of the approved annual financial statements, the tax on dividends is payable up to and including January 25 of the following year, instead of 31 December of that year as it was until 31 December 2009.
Income in the form of interest on term deposits formed, saving instruments acquired civil contracts concluded, with effect from January 1, 2007, shall be imposed at a rate of 16% of their amount. The amounts received in the form of interest-free loans on the basis of civil contracts, calculation of the tax payable shall be made at the moment of disbursement of interest. Payment of tax for interest income to make monthly, not later than the 25th of the month following registration or, in the case of a redemption of savings instruments, i.e. at the time of disbursement of interest, for the income of this nature, on the basis of civil contracts.

For term deposits formed, saving instruments acquired civil contracts completed, deposits or current accounts established prior to the date of 1 January 2007, but whose maturity is starting with January 1, 2007, to determine the tax on interest income tax rate shall apply from the date of establishment.

Calculation of the withholding and transfer, tax on income from investments, shall be carried out as follows:

a) He led from the transfer of winnings securities other than shares and securities in the case of closed societies, is subject to a rate of 1%, representing advance payment of taxes withheld on account of tax payable annually. The obligation of calculating, withholding tax and tax payment, early returns payment intermediaries, asset management companies if the redemption of units at the open end funds or other payers of income, where appropriate, for each transaction.

Income tax withholding calculated and shall be transferred to the State budget up to 25 inclusive of the month following that in which it was incorporated. For transactions in the fiscal year, the taxpayer has the obligation of tax declaration. The annual tax payable is determined by the taxpayer, as follows:

- by applying 16% of the net annual profit of each of her winning contributor for securities disposed of or redeemed, if the securities investment funds, with effect from 1 January 2007, in a period of less than 365 days from the date of acquisition;
by applying 1% share of the annual net gain of each taxpayer for securities disposed of or redeemed, if the securities investment funds, with effect from 1 January 2007, in a period exceeding 365 days from the date of acquisition;  
b) In the case of transfer of gains on securities, in the case of closed societies, and of the social parties, transfer the obligation of calculating, withholding tax and tax returns to the purchaser. Calculation and withholding of tax by the purchaser shall be carried out at the time of conclusion of the transaction, on the basis of the contract concluded between the parties. The tax shall be calculated by applying the rate of 16% on the earnings, at every transaction, the tax is final. 
The transfer of ownership of securities or to social parties must be entered in the commercial register and/or in the register of members or shareholders, as the case may be, the operation cannot be performed without justification payment of tax to the State budget. The term tax remittance or payment is up to the date on which the documents are submitted for transcription of the ownership of securities or to register in the register of shareholders or, where appropriate, whether the payment is made or those securities not rotationally.  
c) the profit arising from the sale/purchase of foreign currency forward contract, as well as from any other operations of this kind, other than those with financial instruments traded on markets authorised and supervised by the Financial Supervisory Authority, is subject to 1% for every transaction, the tax withheld as advance payment on account of tax payable annually. The obligation of calculating, withholding tax and payment of tax returns or other intermediaries liable to income, as appropriate, after the event. Tax calculated and withheld, representing advance payment, shall be transferred no later than the 25th of the month following the month in which it was incorporated.  
For the fiscal year transactions the taxpayer is required by the tax declaration is lodged. The annual tax payable is determined by the taxpayer pursuant to a 16% share of the annual net profit of each contributor.  
d) taxable income from the liquidation of a legal person by the shareholders or members shall be individuals with a share of 16%, the tax is final. The obligation of calculating, withholding tax and tax payment legal person. Income tax withholding calculated and turns up to the date of the final financial statement to the trade registry office, drawn up by liquidators. Losses resulting from transactions with shares and securities, in the case of closed societies, are not recognized for tax purposes, shall not be reversed and over. Losses arising from trading in securities, other than losses resulting from transactions with shares and securities, in the case of closed societies, registered during the fiscal year, shall be compensated at the end of the fiscal year with profits of the same kind made from trading in securities, other than losses resulting from transactions with shares and securities, in the case of closed societies in the course of that year. If this results in a loss of annual compensation, beginning with the loss of fiscal year 2010, it is reported only in the following year. The annual loss posted in fiscal year 2009 shall not be carried over.
Losses arising from the operations of sale or purchase of foreign currency to the term, contract, and any other operations of this kind, other than those with financial instruments traded on markets authorised and supervised by the Financial Supervisory Authority, recorded during the fiscal year, shall be compensated at the end of the fiscal year with gains made during that year. If this results in a loss of annual compensation, this shall not be carried over.

Annual tax to be recovered shall be determined by the competent tax authority as the difference between the income tax accounting for prepayments made during the year and the annual tax due. The tax authority will refund to the taxpayer amounts due, within the time limit and conditions determined by law.

Pursuant to these provisions shall be used for determining the rules, withholding and payment of tax on capital profits from the transfer of securities obtained by individuals, approved by joint order of the Minister of Public Finance and the President of the Financial Supervisory Authority. Notwithstanding, in the period 1 January 2009 to 31 December 2009 inclusive, the gains made by individuals from the transfer of securities other than shares and securities in the case of closed societies, were non-taxable income.

The earnings of individuals from the transfer of securities other than shares and securities in the case of closed societies, carried out from January 1, 2010, are subject to the tax rate of 16%, excluding profits from the transfer of securities disposed of within a period exceeding 365 days from the date of acquisition, in order to maintain its share of 1% laid down in tax code of Romania, art. 67 para. (3) (a). (e)).

Foreign direct investment (FDI) and income from FDI (mld. EURO)

<table>
<thead>
<tr>
<th></th>
<th>2009</th>
<th>2010</th>
<th>2011</th>
<th>2012</th>
<th>2013</th>
<th>2014 (11 luni)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Equity investments</td>
<td>1,7</td>
<td>1,8</td>
<td>1,5</td>
<td>0,8</td>
<td>2,4</td>
<td>2,4</td>
</tr>
<tr>
<td>Net loans</td>
<td>1,7</td>
<td>0,4</td>
<td>0,3</td>
<td>1,3</td>
<td>0,3</td>
<td>-0,3</td>
</tr>
<tr>
<td>FDI total</td>
<td>3,4</td>
<td>2,2</td>
<td>1,8</td>
<td>2,1</td>
<td>2,7</td>
<td>2,1</td>
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<tr>
<td>Income from equity investments</td>
<td>0,2</td>
<td>-0,3</td>
<td>-0,4</td>
<td>0,3</td>
<td>1,9</td>
<td>N/A</td>
</tr>
<tr>
<td>Net interest income</td>
<td>0,5</td>
<td>0,8</td>
<td>0,8</td>
<td>1,0</td>
<td>0,9</td>
<td>N/A</td>
</tr>
<tr>
<td>FDI revenue</td>
<td>0,7</td>
<td>0,5</td>
<td>0,4</td>
<td>1,3</td>
<td>2,8</td>
<td>2,7</td>
</tr>
</tbody>
</table>

Source: BNR

Taxpayers who carried out individually or in a form of association income from self-employment, income from the lease of property, income from agricultural activities determined in real system are required to file a statement of income received from the competent tax authority for each fiscal year no later than 15 May of the year following that of income. The statement of income (tax declaration) must be completed for each source and category of income. For the income obtained in a form of association, stated income will be the loss of net income distributed from the association.

The statement of income (tax declaration) to be completed and for annual net profit loss, respectively, generated annual net:
transactions in securities other than shares and securities, in the case of closed societies;
operations of buying-selling foreign currency forward contract, and any other operations of this kind.

Do not make statements concerning the income (tax returns) for the following categories of income:
a) net income determined on the basis of income, except for the taxpayers who have filed statements of income forecast in December and for which no payments have been established according to the law, early;
b) income in the form of wages and salaries, income in respect of which the information is contained in tax returns that have system of declarations of taxes and fees or monthly statements, filed by taxpayers;
c) income from investments, and income from prizes and gambling, whose tax is final;
d) income from pensions;
e) income from agricultural activities whose tax is final;
f) revenue from the transfer of immovable property;
g) income from other sources.

Tax statements are documents that taxpayers declare income and expenses actually incurred, each category of income and on each source when determining the income tax, corporation tax and payments in advance. These shall be submitted by the taxpayers who carried out individually or in a form of association, income from self-employment, income from the lease of property and income from agricultural activities in respect of which the net income shall be determined in the real system. Tax declarations shall be submitted no later than May 15, including the year following that of the competent tax authority income, defined according to the laws in the matter. For the revenue made from a form of association, said revenue will be distributed, net income loss distributed in combination.

Taxpayers who realizes income taxable in Romania from abroad are required to declare such income in Romania until May 15, including the year following that of income. Instead, taxpayers who cease to be resident for tax purposes in Romania will be submitted to the tax authority in whose territorial RADIUS domiciles to tax an income statement. The statements will include the income and expenses related to the current fiscal year, the period in which taxpayers have had their residence in Romania. Within 5 days of submission of the Declaration, the tax body in whose territorial RADIUS the taxpayer fiscal domicile will give its decision requiring taxpayer and will communicate any amounts payable or recoverable.

References
Mihalache, R.A. (2010), Fiscalitatea pe piața de capital din România, Editura Renaissance, București

*** Legea nr. 571/2003 coroborată cu HG 44/2004 privind Codul fiscal, actualizată și republicată
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