

## COMPENSATIONS BETWEEN PROVIDERS AND BENEFICIARIES – LEGAL, FISCAL AND ACCOUNTING ASPECTS

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**Abstract:** *The subject of this paper deals with the theoretical concepts on compensation operations of claims with the liabilities resulted from the commercial transactions, and also on the fiscal and accounting treatment of the compensations between suppliers and customers. In order to apply these rules, a study case of some legal persons registered in VAT purposes was drawn up.*

*In order to demonstrate how the shown cases should be solved, references to the law provisions currently in force have been made.*

**Key words:** *compensation order, signing date, invoices, amount, VAT*

### INTRODUCTION

According to the non-compensation principle, governed by the Order 3.055/2009, point 45, any compensation between asset elements and liabilities or between income elements and expenses is forbidden. Any claim and liability shall be separately registered in accounting, based on supporting documents. The compensations between claims and liabilities towards the same legal entity may be performed only by observing the legal provisions and after registering into accounting the corresponding income and expenses.

### MATERIALS AND METHODS

The compensations performed between legal persons are governed by the GD no. 685/1999. In compliance with these regulations, the invoices older than 30 days which exceed the threshold of 10.000 lei are compensated based on the compensation order by Institute of Management and Informatics (IMI).

The compensation orders have a special regime, they are numbered by default, and shall be attached to the accounting note.

For the invoices not exceeding the term of 30 days, the compensations may be performed outside the IMI institutional system, but based on the same forms.

In case at least one party is not a legal person, the operation shall be based on the minutes of compensation.

The compensation order and the minutes of compensation are considered non-cash payment instruments.

In compliance with the provisions of the Order 1519/2012 (point 13), the compensation date is the compensation order date or the signing date of the compensation minutes.

The summary regarding the date when VAT becomes due for the supplier applying VAT collection system results from the following chart:

**Chart no. 1**

Compensation carried out before the expiry term of 90 calendar days from the date of invoice issuing

The supplier	The date when the claim is received and VAT is collected	The beneficiary
Taxable person applying VAT collection system	When compensation is made before the expiry term of 90 calendar days from the date of issuing the invoice, the date of VAT receipt and collection is the compensation date resulting from the compensation order or from the compensation minutes.	Deducts VAT on compensation date for the compensated amount.

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 90<sup>th</sup>-calendar-day deadline provided by law to issue the invoice, calculated in accordance with the Civil Procedure Code” (art. 134<sup>2</sup> para.5 of the Fiscal Code)

**Chart no. 2**

Compensation carried out after the expiry term of 90 calendar days from the date of issuing the invoice

The supplier	The date when the claim is received and VAT is collected	The beneficiary
Taxable person applying VAT collection system	In the 90 <sup>th</sup> -calendar-day from issuing the invoice date	Deducts VAT on the compensation date for the compensated amount.

The termination of the mutual obligations between two or more commercial entities through compensation is made up to the lesser amount.

In case the supplier/provider is a taxable person which is not subject of the VAT collection system, the tax becomes due in compliance with the general rules on exigibility governed by the Fiscal Code.

## RESULTS AND DISCUSSIONS

In order to solve the approached issues, the main source of information is the guide for the application of VAT collection system, approved by Order 1519/2012.

Case study :

On January 12th, 2013, company A delivers goods to company B, based on the invoice amounting to 12.400 lei, VAT 24% included.

On the same date, company B invoices services provided to company A, amounting to 9.920 lei, VAT 24% included. The payment instruments are the compensation order dated February 22nd, 2013 drawn up for the amount of 9.920 lei and the receipt issued on February 22nd for the difference of 2480 lei.

Option 1: Both companies apply VAT collection system.

Bookkeeping company A:

No. crt.	Explanations	D	=	C	Amount
1.	12/01/2013 Goods selling	4111	=	%	12.400 lei
				707	10.000 lei
				4428	2.400 lei
2.	12/01/2013 Services purchase	%	=	401	9.920 lei
		628			8.000 lei
		4428			1.920 lei
3.	22/02/2013 Compensation order and receipt	%	=	4111	12.400 lei
		401			9.920 lei
		5311			2.480 lei
4.	VAT collection	4428	=	4427	2.400 lei
5.	VAT deduction	4426	=	4427	1.920 lei

Bookkeeping company B:

No. crt.	Explanations	D	=	C	Amount
1.	12/01/2013 Services selling	4111	=	%	9.920 lei
				704	8.000 lei
				4428	1.920 lei
2.	12/01/2013 Goods purchase	%	=	401	12.400 lei
		371			10.000 lei
		4428			2.400 lei
3.	22/02/2013 Compensation order and receipt	401	=	%	12.400 lei

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				4111	9.920 lei
				5311	2.480 lei
4.	VAT collection	4428	=	4427	1.920 lei
5.	VAT deduction	4426	=	4428	2.400 lei

Option 2: The goods supplier applies the regular VAT system; the services supplier applies the VAT collection system

Bookkeeping company A:

No. crt.	Explanations	D	=	C	Amount
1.	12/01/2013 Goods selling	4111	=	%	12.400 lei
				707	10.000 lei
				4427	2.400 lei
2.	12/01/2013 Services purchase	%	=	401	9.920 lei
		628			8:000 lei
		4428			1:920 lei
3.	22/02/2013 Compensation order and receipt	%	=	4111	12.400 lei
		401			9.920 lei
		5311			2.480 lei
4.	VAT deduction	4426	=	4428	1.920 lei

Bookkeeping company B:

No. crt.	Explanations	D	=	C	Suma
1.	12/01/2013 Services selling	4111	=	%	9.920 lei
				704	8.000 lei
				4428	1.920 lei
2.	12/01/2013 Goods purchase	%	=	401	12.400 lei
		371			10.000 lei
		4428			2.400 lei
3.	22/02/2013 Compensation order and receipt	401	=	%	12.400 lei
				411	9.920 lei
				5311	2.480 lei
4.	VAT collection	4428	=	4427	1.920 lei
5.	VAT deduction	4426	=	4428	2.400 lei

## CONCLUSIONS

- In accounting, each claim and liability must be registered separately, based on supporting documents. The compensation between claims and liabilities towards the same legal entity may be made only in accordance with the legal provisions and after recording into accounting the relevant income and expenses;
- The compensation order is used for compensations between legal persons. When one of the Parties is a natural person, the compensation handover protocol will be used instead.
- The compensation orders for invoices older than 30 days which surpass the amount of 10.000 RON are issued through the IMI institutional system.
- However, for invoices surpassing 10.000 RON but not older than 30 days, the IMI system of compensation is not mandatory although a compensation order must be used.
- When the supplier applies the regular VAT system, VAT is due in accordance with the general provisions of the Fiscal Code.
- When the supplier applies the VAT collection system, VAT is due on the compensation day, if the compensation occurs before 90 days from the date of issuing the invoice.
- When the supplier applies the VAT collection system and the compensation occurs after 90 days from the date of issuing the invoice, VAT is due on the 90th day. The beneficiary deducts VAT on the compensation day.

## 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 și fiscale privind impozitele și taxele, Editura Economică, București.
5. **\*\*\*, The Guide on applying the VAT collection system, approved by the Order 2519.2012**