

ASPECTS REGARDING THE ACCOUNTING OF THE LEGAL ENTITIES WITHOUT PATRIMONIAL PURPOSE

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Abstract: *Starting from the concept, the categories and the role of the non-profit sector in Romania, we treat the organisation of the single-entry bookkeeping and especially the double-entry one. We take into consideration the correlation between the accounting regulations for legal entities without patrimonial purpose with the European directions regarding the bookkeeping of the other legal entities. We reveal specific aspects regarding the equities, the obligations to the state budget, the expenses, the income and the annual financial situations.*

Key words: non-profit legal entities, the role of the non-profit sector, and the particularities of the non-profit entities

INTRODUCTION

In Romania and also worldwide, there are legal entities with patrimonial purpose (trade companies, independent administrations, etc) having as a purpose the profit as well as legal entities without patrimonial purpose (non-profit organisations).

No matter their denomination, the legal entities with no patrimonial purpose, non-profit organisations, non-governmental organisations, non-profit association, these are free individuals or legal entities associations, of private law that act based on a statute, in order to perform some non-patrimonial activities of general interest or some collectivities, or for their own purpose. Non-patrimonial does not mean they cannot have an own patrimony and economic activities leading to obtaining profit, to be used for accomplishing their own purposes without having the right to distribute it to the shareholders. An important place in performing their activity is the volunteer work..

The fiscal code defines the non-profit organisations „any association, foundation or federation set-up in Romania, in compliance with the legislation in force, only if the association’s, foundation’s income and assets are used to perform an activity of a general, communitarian or non-patrimonial interest”¹.

Depending on their specific they can be: associations, foundations and federations set-up as legal entities of private law with no patrimonial purpose². They can function with or without legal personality. The legal responsibility of their actions can be reflected personally on its members, if they do not have legal personality.

MATERIALS AND METHODS.

The association is the law subject set-up from three or several persons, based on an agreement, they put together without the restitution right the material contribution, the knowledge or their labour contribution to accomplish some activities for the general interest of some collectivities or as necessary for their own non-patrimonial interest. It

¹ Fiscal code, Title I, chapter IV, definitions art 7 paragraph 18, up-dated by H G no 20/16. 01. 2013

² OG, no 26/2000, regarding the associations and foundations with future modifications; Best Publishing România, Associations and Foundations, %th Edition,2010

becomes a legal entity at the moment of its registration in the Register of associations and foundations³.

The foundation is the law subject set-up by one or several persons based on a legal document inter vivos or mortis causa constitutes a patrimony affected permanently and irrevocably for accomplishing a general interest purpose or of some collectivities⁴

The federation is composed out of two or more associations or foundations, each with legal personality and own patrimony. If an association or a foundation sums up cumulatively the conditions stipulated by the law, by a governmental decision it is acknowledge as being of public utility, as performing activities in the fields of public utilities or some collectivities.

The liberty of association of the Romanian citizens into associations or foundations, regulated in 1924 by the Law Marzescu represents the legal base of organizing and performing non-profit activities and contributes to the development of this sector until the second world war⁵. As a resulting of termination of validity of Marzescu Law, by OG no 26 from 2000, a new regulation is given to the legal entities with no patrimonial purpose. In time it proves its viability and functioning way, and becomes a force in the social field.

Besides associations and foundations, in the non-profit sector the legislation does not expressly stipulate the criteria of including the entities. Therefore in this sector we can see other forms of organisation too, such as: physically challenged cooperatives, mutual aid funds, syndicates and syndicate confederations, parties and political organisations, professional unions and patrons unions, national company of red cross, cultural and sport associations, youth clubs, religious organisations, etc

The non-profit sector in Romania functions independently to the other economic sectors. It has an important role, characterised through:

- Activities for environmental protection;
- Insuring the connection between the citizens and the public authorities regarding the mobilisation of the local resources;
- Prevention and correction of some problems and lacks depending on the sector of the public administration and the business sector;
- It helps to the development of society in general by protecting the civil values as a result of increasing the collaboration to the public authorities;
- It allows the social integration of the citizens, the non-profit sector represents a mean of civic participation to the functioning of the public sector;
- It provides non-market goods and services for households and local communities;
- The partnership of the non-profit sector with the local authorities represents a warranty of continuous public policies for the citizens.

RESEARCH RESULTS.

The accounting in its quality of a component of the economic informational system provides most of the information of an accounting nature. The accounting information is real, precise, complete, and operative representing the board table, the support of the economic, financial and administrative decisions taken by the managers. In case of the legal entities with no patrimonial purpose, the accounting provides complex information regarding the assets, debts, equities at the end of the financial exercise, information regarding the income and expenses from the results account presented on three activities:

³ OG 26 / 2000, art.4, art.8

⁴ OG 26 /2000 , art.15

⁵Law no 21 /6 February 1924, for legal entities/associations and foundations

activities with no patrimonial purpose, activities with special destination and economic activities and information regarding the excedent / profit or the deficit/loss of the financial exercise result. Managers mainly based themselves on accounting information for managing and evaluating the current activity and in foreseeing the future activity.

As a result of the important accounting-financial information in the decisional process, the legal entities with no patrimonial purpose must organise and lead financial accounting. They can be organized as following:

- Single entry bookkeeping for religious units, ownership associations and other legal entities with no patrimonial purpose, which have expressly stipulated this in the set-up agreement. The categories that can have single-entry bookkeeping are established by the order of the public finance ministry.⁶
- Double-entry bookkeeping for activities with no patrimonial purpose, special destination activities, and activities with economic destination performed by associations, foundations and other similar organisation, syndicates, religious cults, ownerships, etc. They must have double-entry bookkeeping and they must elaborate annual financial situations.⁷

By analysing the accounting regulations regarding the legal entities with no patrimonial purpose that have double-entry bookkeeping it results that they are correlated to the stipulations of the other legal entities in Romania regarding:⁸

- The general accounting principles: the principle of continuity, of the permanence of methods, of prudence, of independent exercise, etc.
- General rules of valuation the assets and debts
- The account plan, having the same symbols for the account classes, synthetic groups and accounts of 1st and 2nd degree which are the same for the legal entities;
- The same account of the annual financial situations resulting particularities for the legal entities with no patrimonial purpose, especially for the results account.

A. Equities are formed from the members' capital contributions in cash and in kind, distinctly for activities with no patrimonial purpose and economic activities, from the revaluation reserves, legal reserves and statutory reserves, from the excedent /profit or the deficit/loss reported and the one from the current financial exercise. In the case of equities there are included a serial of funds regarding the activities with no patrimonial purpose: the social fund of the members of the mutual aid fund associations, death fund of the members of the mutual aid association, the repairing fund of the ownerships' associations, etc.

B. Tangible assets accounting (non-tangible, tangible and financial assets), circulant assets (stock, debts, cash availabilities) *debts* do not present particularities to the other legal entities, except the VAT and the tax on profit:

a / the VAT

The VAT represents an indirect tax to the state budget, based on the criteria of deductibility for operations that are constituted or assimilated to a goods delivery or a service performance, done with a payment.

For non-profit organisations it is calculated and it is cashed by the VAT fiscal organs only for economic activities, if the turn over is higher than Euro 65,000 calculated at the National Bank exchange rate on the adhesion date, that is RON 220,000. Below

⁶ Accounting law no 82 /1991, up-dated in 2011.

⁷ OMEF no 1969 / 2007, regarding the approval of the Accounting regulations for legal entities with no patrimonial purpose , modified by OMFP no 2869 / 2010.

⁸ OMFP no 3055 /2009, for approving the accounting regulations according to the European directions, modified by OMFP no 2869 /2010.

this amount there is a special exemption condition for small companies, except the intra-communitarian deliveries for new transportation means.⁹

b / Tax on profit

The legislation in force stipulates the exemption from the payment of the tax on profit of the tax payers:¹⁰

- The Romanian funds set-up as a result of a legate;
- The religious cults for: income obtained from the production and valuation of objects and products needed for the cult activities, rental income, other income from economic activities, income from money compensations obtained from reconstructing the property right, if used for sustaining and functioning of the cult units, construction works, repairing and consolidation and other non-profit activities.
- Ownerships' associations for income obtained from economic activities, used for improving the utilities and the buildings' efficiency, for maintaining and repairing the joint property.
- Non-profit organisations, syndicates and entrepreneurs' union for income from non patrimonial purpose and for income from economic activities realised up to the level of Euro 15,000 in a fiscal year but not higher than 10% from the total exempted income

C. The expenses and income accounts

1. Expenses

The expenses accounts of the legal entities with no patrimonial purpose correspond to those of the legal entities with patrimonial purpose with small exceptions. There are some extra new specific accounts such as:

- Membership taxes and contributions due of the legal entities with no patrimonial purpose;
- Expenses representing the percentage due according to the set-up agreement;
- non-refundable helps and loans transferred to other legal entities with no patrimonial purpose

2. Income

Besides the income account, common to both entities there is group 73 „Income from activities with no patrimonial purpose, stipulated by the fiscal code and by the accounts plan, such as:

- income from members contributions and cash contributions or in kind contributions of members and supporters;
- income from registration taxes established according to the legislation in force;
- income from donations and amounts or goods received through sponsorships;
- income from interest and dividends obtained from placing availabilities resulted from non patrimonial activities;
- income that has tax on representations;
- income obtained from the state budget and/or the local budgets and income subventions;
- income from occasional activities, used in a social or professional purpose according to the organisation and functioning agreement;
- income resulted from the concession of the tangible assets of the legal entities with no patrimonial purpose, other than those that are or have been used in the economic activity;

⁹ Chapter XII, Special cases, art.152, paragraph 1, Fiscal code 2013

¹⁰ Chapter .II,Tax on profit art 15,Excmptions, Fiscal code, up-dated 2013.

- other income from non patrimonial activities.

D. Financial situations

The legal entities with no patrimonial purpose that have a double-entry bookkeeping elaborated at the end of each exercise annual financial situations that offer a faithful image of the financial position, the financial performance and other information regarding the performed activity. They consist out of:¹¹

- balance sheet;
- the account of the exercise's result;
- explanatory notes to the annual financial situations.

Entrepreneurs' organisations, syndicates and other non patrimonial organisations that do not perform economic activities, except the legal persons with no patrimonial purpose of public utility, elaborate simplified financial situations that contain:

- short balance sheet;
- short account of the exercise's result;
- explanatory notes to the financial situations¹²

From the analyse of the financial situations of the legal entities with no patrimonial purpose and those with patrimonial purpose the following particularities result:

1. Balance sheet

The balance sheet of the legal entities with no patrimonial purpose¹³ is similar to the one of the entities with patrimonial purpose with some specific elements regarding the balance sheet passive:

a/ For the group: „Capital and reserves” besides the common posts:

I Equity (account 101)

II Revaluation reserves (account 105)

III Reserves (account 106) there are also some specific post:

IV The excedent / Profit and the Deficit / Loss of the financial exercise (account 121)

----EQUITIES - Total

The social fund of the Mutual aid fund members (CAR) (account 113)

The death fund of the members of the Mutual Aid Fund (account 114)

Working capital of the ownerships' associations (account 115)

Other funds regarding the activities with no patrimonial purpose

EQUITIES- TOTAL

It results that a particularity of the financial situations is the denomination given to the financial exercise result. The result generated by the economic activity is called as like at the legal entities with patrimonial purpose (trade companies) profit or loss, depending on its nature, and the result obtained from the activity without patrimonial purpose or with a special destination is called excedent if it is positive or deficit if it is negative.

2. The account of the exercise's result.

The purpose of the non-profit organisations is not the development of economic activities, but they can choose it by setting-up trade companies or any other economic activities.¹⁴ As well activities with special destination can be performed.

¹¹ Account law, nr. 82/ 1991, up-dated in 2011, art.30; OMEF no 1969 / 2007, point.3, paragraph 1

¹² OMFP no 1969 / 2007, point3, paragraph 2, OMFP no 40/2013

¹³ OMFP no 1969/2007, up-dated OMFP no.2869 /2011, OMFP no 3055/2009

As a result of the three activities of the legal entities with no patrimonial purpose the results account presents a serial of particularities if compared to the legal entities with patrimonial purpose:

I Income from activities with no patrimonial purpose (V)

II Expenses regarding the activities with no patrimonial purpose (C)

III The result of the non patrimonial purpose activities:

- Excedent $V > C$

- Deficit $V < C$

IV Income from special destination activities (V)

V Expenses regarding special destination activities (C)

VI The result of the activities with special destination

- Excedent $V > C$

- Deficit $V < C$

VII Income from economic activities (V)

VIII Expenses from economic activities (C)

- Profit $V > C$

- Loss $V < C$

X Total income (VT)

XI Total expenses (CT)

XII The exercise's result

- Excedent / Profit $VT > CT$

- Deficit / loss $VT < CT$

The income and the expenses from special destination activities are regulated by the special laws: cinemas, theatre, music, folk, arts, architecture, etc.

3. Explanatory notes of the financial situations.

The explanatory notes as for other entities must:

a – present information about the regulations and the account policies they have been based on,

b – offer supplementary information that are not presented in the balance sheet and the result account that are relevant for their understanding.

CONCLUSIONS

The financial situations are accompanied by the administrator's report, approved by the administration counsel and audited by the auditors or the censors' committee report.

The legal entities with no patrimonial purpose that manage the single-entry accounting do not elaborate annual financial situations. For verifying the correct registration of the operations, based on the material and different value charts, books, each month there are elaborated a situation of the assets and liabilities elements.

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