

Tax groups in Romania – regulated, yet not common

by Adina Zdru, tax consultant

Companies pertaining to a group have the option to form so-called „tax groups “(Ro: *grup fiscal*) for tax purposes. In German-speaking countries, such groups are known as “Organschaft”. The purpose of establishing such a group is represented by the fiscal consolidation at group level, respectively the declaration and payment of the over tax amount resulting from the summation of the individual tax liabilities for each group member.

While at the moment, establishing such groups is possible only for VAT purposes, starting with 2022, tax groups can be established also related to the corporate income tax (CIT).

Requirements for establishing a tax group

A VAT group can be established by at least two companies based in Romania that are independent from a legal point of view, but have tight organizational, financial and economic relationships. This requirement is considered to be met if more than 50% of the capital of the members is held directly or indirectly by the same shareholders. In order to join a VAT group, the following requirements have to be met:

- the tax payer is member of a sole group
- the group is established for at least two years
- all group members have the same VAT reporting period.

The requirements for establishing a CIT group are more restrictive. Members of such group can be the following: (i) Romanian legal entities, (ii) legal entities established according to EU law, headquartered in Romania and (iii) permanent establishments the parent companies of which are resident in states with which Romania has concluded a double taxation convention or an agreement on information exchange. In any case, a direct or indirect participation of at least 75% between the members or between members and a common shareholder has to be observed. The members must meet the following requirements cumulatively:

- the abovementioned ownership structure persists uninterruptedly for at least a year;
- they are exclusively payers of corporate income tax and apply the same reporting system (quarterly or yearly);
- they have the same fiscal year;
- they belong to no other corporate tax groups.

Functioning

The purpose of establishing a tax group is represented by the consolidated reporting and payment of the corporate income tax and the VAT by the leader/ representative appointed by the members. The consolidated tax amounts are determined as the sum of the tax results of each member.

Profit and loss registered by group members can be partly settled in case of a consolidated reporting of the corporate tax, so that ultimately only the net amount is to be paid. This principle applies as such also in case of VAT groups, within which VAT payment obligations can be credited against the VAT credit of each and every member.

Procedural aspects

The fiscal registration procedures are similar in both cases. The fiscal group must appoint a representative/leader, who will file a joint request of the members with the competent financial administration. The request will be accompanied by a series of documents that will show the participation structure existing between the members. The establishment of such groups has to be requested at least 60 days before the beginning of the period for which the consolidation should apply.

From the moment of the tax treatment as a group, the fiscal entry sheet of individual members concerning the corporate tax, respectively VAT, will be blocked; the registration obligation for these taxes lies only with the leader/representative of the group. However, the members have to submit certain other related declarations. It is also not avoidable that the members keep overviews over the tax liabilities which would be due if they were not members of the respective tax group, for internal information purposes.

The members share a joint liability with regard to tax liabilities reported by the group. Moreover, the dissolution of such groups before the legally determined duration can lead to negative effects in case of corporate tax groups.

Conclusion

Tax groups are not very frequent in the Romanian practice. This is mainly due to the administration perceived as not common, the necessity of a constant and accurate communication between the members, the risks related to the implementation as well as the lacking experience of tax authorities.

Despite the existing difficulties, if implemented correctly and managed accordingly, joining a tax group can generate significant advantages. The necessary steps must however be prepared in advance.

Contact and further information:



STALFORT Legal. Tax. Audit.
Bucharest – Bistrița – Sibiu

Office Bucharest:

T.: +40 – 21 – 301 03 53

F: +40 – 21 – 315 78 36

M: bukarest@stalfort.ro

www.stalfort.ro