

## **TAXATION OF THE REAL ESTATE IN ROMANIA**

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### **Abstract:**

In Romania, the current way of taxation according to the stated destination of the building, in addition to being difficult, stimulates fraud. Any person or entity will be tempted to declare using the property for those types of activities taxed less. That's why many political and administrative aspects regarding the taxation of the properties must be carefully considered as premises of a reform in the field.

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### **1. Recent history of the taxation of real estate in Romania**

Although at one time bookkeeping requirement was for a single category of persons currently is required to keep accounting returns to both individuals and legal entities. According to the Accounting Act<sup>2</sup>, the obligation lies with the organization and management accounting of:

- Commercial companies;
- Companies / national companies;

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<sup>2</sup> Accounting act 82/1991, art. 1

- Autonomous administrations;
- National research and development institutes;
- Cooperative societies;
- Public institutions;
- Associations;
- Other legal entities and non-profit organizations;
- Subunits unincorporated based abroad that belong to persons residing in Romania and unincorporated subdivisions in Romania belonging to legal entities headquartered abroad;
- Individuals who carry out revenue-producing activities, as defined by the Tax Code.

Natural and legal persons mentioned are required to keep, perhaps to provide as much information as state institutions required for their taxation, among others, according to the Accounting Act<sup>3</sup>, the following:

- Documents;
- Accounting records of any operations conducted as part of the accounting records;
- Heritage inventory results;
- Balance sheet;
- Supervise the operations;
- Provision on the state heritage, publish and maintain information and results obtained from natural or legal person.

Regarding taxes owed by individuals who used their homes as firms, the situation currently stood slightly different from earlier this year.

At that time, individuals who used their own home as the headquarters of the firm or who were using such a dwelling intended for mixed (and economic activity) they had to be taken out of the tax basis of a declaration and were obliged to pay tax several times higher than last year.

Also, early-taxation was made for the land under the house depending on the rank of the village and the area where the property is located.

By the end of 2015 / beginning of this year, the building tax is calculated based on the type of person who owned that building and not the

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<sup>3</sup> Idem

destination<sup>4</sup>. Currently, the tax system is set according to the destination of the building<sup>5</sup>.

## **2. The tax system currently applicable in Romania**

A change in the regulations described before for the taxation of the buildings provides that, where the buildings are used for dual purpose, both as housing and as head offices, and areas used for residential and used for non-residential can not be identified, holders of these will due a tax similar to that for the housing, if provided that they do not derive their utility costs of business outcomes. Examples of real estate costs associated utilities are electricity consumed by the building, the water consumed in the real estate, the natural gas consumption for the building.

This leads to the radical action taken on the first part of the year, which stated that any owners of buildings, regardless of their destination, will pay taxes much higher applied to these buildings to the actual approach, much milder, which allows owners of premises to pay taxes different from those of housing only if they decide to deduct utilities / allow deduction of expenses from income realized by the company that operates the respective headquarters. If the surfaces can not be identified, and a specific address there is of a legal entity carrying out economic activities and utilities expenses deduction (and possibly rent deduction) is when the tax authorities will consider the entire building as having a non-residential destination. If these areas can not be clearly identified, and that address is not used for economic activities and utility costs are not deducted real estate is considered to have a residential destination<sup>6</sup>. According to current legal provisions for residential buildings the rates are between 0.08% and 2% of their taxable value. In 2015 the tax rate was 0.01% on the taxable value determined under the provisions of the old Tax Code. It is noted that taxes imposed on residential buildings for now are up to 20 times higher than those that were established in the past. The

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<sup>4</sup> [http://www.total-media-news.ro/index.php?option=com\\_content&view=article&id=4865:impozitul-pe-cladiri-se-va-calcula-in-functie-de-destinatia-proprietatii-rezidentiale-sau-nerezident&catid=59:legislatie&Itemid=107](http://www.total-media-news.ro/index.php?option=com_content&view=article&id=4865:impozitul-pe-cladiri-se-va-calcula-in-functie-de-destinatia-proprietatii-rezidentiale-sau-nerezident&catid=59:legislatie&Itemid=107)

<sup>5</sup> Andreescu, Crișan, Impozit pe clădiri. Riscul la care te expui în cazul în care nu reevaluezi locuința, [http://www.dcnnews.ro/impozit-pe-cladiri-riscul-la-care-te-expui-in-cazul-in-care-nu-reevaluezi-locuin-a\\_493777.html](http://www.dcnnews.ro/impozit-pe-cladiri-riscul-la-care-te-expui-in-cazul-in-care-nu-reevaluezi-locuin-a_493777.html)

<sup>6</sup> Grama, Cornel, Impozitarea cladirilor cu regim mixt aflate în proprietatea persoanelor fizice în 5 exemple practice și o schemă, [http://economie.hotnews.ro/stiri-finante\\_banci-20808770-impozitarea-cladirilor-regim-mixt-aflate-proprietatea-persoanelor-fizice-5-exemple-practice-schema.htm](http://economie.hotnews.ro/stiri-finante_banci-20808770-impozitarea-cladirilor-regim-mixt-aflate-proprietatea-persoanelor-fizice-5-exemple-practice-schema.htm)

tax is determined based on the number of square meters of the building built multiplied by the tax imposed per square meter, depending on the category of which the construction of the town is. For buildings intended for mixed use, the tax is currently calculated by adding the tax for the area used for residential area with the tax related economic activities. There are a number of documents that must be attached to the tax return document, such as:

- The valuation report issued by an authorized person during the last five years preceding the reference period, 2011-2015 respectively. The assessment report is submitted in duplicate to the tax and reflects the practical value of the building after 1 January 2011;

- The final acceptance report which shows the value of the new building completed in the last five years preceding the reference, 2011-2015;

- The act of acquiring ownership of a building in the last five years, which shows the value of the building. If the value of the building is not distinctly outlined, the tax will be set on the total amount of the act.

The documents listed before should not be submitted if:

- at the address of the building is not conducted any economic activity;

- at the address of the building is conducted economic activity, the areas used for residential and non-residential can not be determined separately, and the utilities are not recorded in the accounts of the person carrying out economic activities.

The tax rate used for non-residential buildings now ranges between 0.2% and 1.3% of the building. The before-mentioned value is determined by an evaluation report drawn up last 3 years of an authorized, if the estate has not been traded in the last 5 years or have been built in the past five years. In the situation in which the building was built in the last 5 years, the taxable value is the final value of the construction works and whether it was traded in the last 5 years, the taxable amount corresponds to the last of the trading values. One element that increases costs for the non-residential buildings intended holders is the authorized evaluation of buildings every three years. In ignoring this legal situation applies a tax rate of 5% of the last taxable values.

### **3. Proposal to implement a system of taxation of buildings, more manageable**

As I was telling my students, one of the great advantages enjoyed by Romania today is that none of the legal provisions of the developed countries in economic terms is not subject to copyright or any other right like. That means that if we lack inspiration, we can take some of the legal provisions of the developed area that are inspired (see also "The Economist brilliant thought "Romania's chance to Nobel ", Professor at Oxford and the Sorbonne, not good enough to teach at a university in the country"<sup>7</sup>, citing the same idea). We will try to do this further, using as our source of inspiration what already exists in the United States.

Here, property taxation is not established at the federal level, but the regulations of taxation is different. Both methods of taxation and the level of fees varies from jurisdiction to jurisdiction. Consequently, we will take the example of the charging mode used in New York City.

Here the taxes are levied on the assessed properties. The evaluation of the properties is including them in one of the following classes<sup>8</sup>:

- Class I includes most residential properties owned by the same owner, provided that their number be within 3;
- Class II includes all other types of properties that are primarily residential, such as cooperatives and condominium;
- Class III equipment includes properties owned by a gas company, a telephone or electricity company;
- Class IV includes all commercial or industrial properties such as offices, shops or factories.

After being established the class which includes the property, suitable for class multiplier is applied to its market value. The multipliers are:

- 6% for properties belonging to the class I;
- 45% for properties belonging to classes II, III and IV defined before.

The result thus obtained will form the basis of taxation and will be taxed as follows<sup>9</sup>:

- 19.1554% Class I;
- 12.883% Class II;
- 10.813% Class III;

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<sup>7</sup> [http://m.adevarul.ro/locale/cluj-napoca/economistul-genial-considerat-sansa-romaniei-nobel-profesor-oxford-sorbona-nu-e-suficient-bun-preda-universitate-tara-1\\_57c44f4b5ab6550cb832a4de/index.html](http://m.adevarul.ro/locale/cluj-napoca/economistul-genial-considerat-sansa-romaniei-nobel-profesor-oxford-sorbona-nu-e-suficient-bun-preda-universitate-tara-1_57c44f4b5ab6550cb832a4de/index.html)

<sup>8</sup> Global property guide, <http://www.globalpropertyguide.com/North-America/United-States/Taxes-and-Costs>

<sup>9</sup> Idem

- 10.656% Class IV.

In Romania, the current way of taxation according to the stated destination of the building, in addition to being difficult, stimulates fraud. Any person or entity will be tempted to declare using the property for those types of activities taxed less.

We propose that the way the tax is established, like in the example, considering the type of building and not its destination while keeping the provisions regarding the evaluation of buildings in existing legislation but requiring compliance with these provisions of those owners of the buildings that will be ranked in the non-residential categories.

Establishing the value of the square meters built, stated by law, must be preserved because it reduces the costs of owners of residential construction, but often enough amended, so that the holder of the property for residential use is not affected by the reduction in market prices determined by various economic crises, financial, or other (the financial crisis of 2007-2008 has had devastating effects on the market prices of the real estates in Romania). Many political and administrative aspects regarding the taxation of the properties must be carefully considered as premises of a reform in the field.

## **References:**

- [1] Accounting act 82/1991
- [2] Andreescu, Crișan, Impozit pe clădiri. Riscul la care te expui în cazul în care nu reevaluezi locuința, <http://www.dcnews.ro/impozit-pe-cladiri-riscul-la-care-te-expui-in-cazul-in-care-nu-reevaluezi-locuin-a-493777.html>
- [3] Global property guide, <http://www.globalpropertyguide.com/North-America/United-States/Taxes-and-Costs>
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- [5] [http://m.adevarul.ro/locale/cluj-napoca/economistul-genial-considerat-sansa-romaniei-nobel-profesor-oxford-sorbona-nu-e-suficient-bun-preda-universitate-tara-1\\_57c44f4b5ab6550cb832a4de/index.html](http://m.adevarul.ro/locale/cluj-napoca/economistul-genial-considerat-sansa-romaniei-nobel-profesor-oxford-sorbona-nu-e-suficient-bun-preda-universitate-tara-1_57c44f4b5ab6550cb832a4de/index.html)
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