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FISCAL AND BOOK-KEEPING ISSUES REGARDING FINANCING THROUGH LEASING SYSTEM IN EUROPEAN CONTEXT

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Abstract

The legislative modifications, both in accounting/book-keeping and fiscal manner, influenced the leasing which is known in our country as a modern financing technique for investments, being thus an alternative of economical entities financing.

Starting from the rules imposed to nonbanking financial institutions which evolve the credit activity through leasing, related to organization and their operation, in this work I will try to do a parallel between the topic registration accounting system and the system used before the 1 st January 2006, both to lodger and to owner, by studying the influence made on the balance sheet situations and the account of profit and loss, pointing also the taxing difficulties appeared same time with Romania adherence to European Union, related to profit taxation, value added tax, and the local duties, to the entities level which achieve leasing operations or acquire fixed assets in leasing conditions.

1. Introduction

Leasing is a technical modern means of financing investments, being a creation of Anglo-American system that has been covered/settled in our country since 1997 and finally somewhat in 2000, adopting criteria borrowed from international practice.

Legislative changes, such as been accounting and taxes, have made fingerprint on the leasing which constitutes an alternative of funding economic entities.

Taking into account the rules imposed on non-bank financial institutions concerning their organization and functioning, which have the main business loans through leasing, in this paper will try to make a parallel between the current system of registration in accounting operations and the leasing used before 01 January 2006, both the lessor and the tenant, by study of the influence that an exercise on account sheet situations and of the profit and loss, by point also the fiscal difficulties encountered when Romania joins the European Union on tax profit, value added tax and local taxes, the entities that carry out operations leasing or purchasing fixed assets in leasing arrangements.

According to the legislation in force (the Government Ordinance no. 51/1997 on leasing operations and leasing companies, republished, with subsequent amendments), leasing operations are of two kinds: financial leasing and operational leasing.

Given the somewhat limited space allowed for addressing this article, as I referred only to operations under financial leasing regime.

2. Features of financial leasing

The financial leasing provides transmission to the tenant of right to use a good, and the contract of this nature is valid when its content meets at least one of the following conditions:

- risks and benefits of property right of the good which constitute the leasing object are transferred to the user in the moment when the leasing contract takes effect;
- expressly provides the transfer of property rights on property that is subject to leasing to the user at the time of expiry of the contract;
- the user has the option to purchase the property/good at the time of expiry of the contract, and the residual value percentage is less than or equal to the difference between the normal and the maximum duration of the contract leasing, reported in the normal duration, expressed in percentages;
- leasing period exceeds 80% of the normal maximum operating belonging to lease subject, including any period for which the leasing contract may be extended;
- total leasing rates, less expenses accessories, is greater than or equal to the value of the property/good entrance.

In financial leasing contract which is concluded between the leasing company (lessor) and user (tenant), *it states* the following issues:

- the entrance value of the property in tenant heritage;
- the advance value;
- the remaining value of the good, agreed by the parts;
- the leasing rate consists of the share value of the property/good and afferent interest on (the last rate does not contain interest);
- maturity and duration/period of the contract payment rates.

In conditions under which the user pays all its obligations under the contract he may choose to purchase the property before the end of the lease, but not before 12 months, if so agreed with the lessor.

Taking into account of those specified above and accounting regulations in the following issues will illustrate the *main elements* specific to financial leasing:

- ✓ the tangible assets covered by the financial leasing contract belong to the lessor until the expiry of the contract concluded for this purpose, when they are transferring property rights, same time with the last billing rate (the residual value);
- ✓ under/on the basis of the contract concluded the lessor proceed to goods delivery / surrender to the tenant, and the claim constituted thus represents a long-term loan granted to it;
- ✓ the securing of tangible property handed over as financial leasing incumbent to the owner, but the cost of insurance is borne by tenant;
- ✓ the interest included in the contract, negotiated between the parties, are registered by the owner with inventory account 8052, and by the tenant with inventory account 8051;
- ✓ the user records entry into the property of tangible assets, and on the period acting as financial leasing the user/tenant calculates and records the depreciation of those assets, which is deductible from the tax as otherwise the interest paid, according to the provisions/regulations of the Fiscal Code.

3. Accounting issues regarding the financial lease

Since 1 January 2006 the legislative amendments relating to fiscal and accounting issues have marked the registration manner in the accounts of specific operations of

financially lease. The following will make a parallel between the current system of coverage in accounting operations and financial leasing from before, applicable until 1 January 2006, regarding both the leasing company and the user.

3.1. Economical operations to the leasing society (lessor):

<i>a) after 01.01.2006</i>			<i>b) before 01.01.2006</i>	
➤ Are illustrating the acquisition from <i>an internal supplier</i> to a car in order to deliver it in financial leasing regime:				
%	=	404		%
2133		„Suppliers of non-curent assets”		2133
„Motor vehicles”				„Motor vehicles”
4426				4426
„Input VAT”				„Input VAT”
➤ Are illustrating the delivery to the tenant of a motor vehicle which are subject of lease contract (to the acquisition cost price):				
2675	=	2133		2673
„Loans granted on long term”		„Motor vehicle”		„Loans granted on long term”
~ Same time, it is illustrate the receivable interest:				
D: 8052		„Input interest”		2674
				=
				472
				„Accrued interest on long term loans;
				„Deferred income”
~ Same time, are registered the tangible assets delivery to the lessor through the financial leasing:				
				D: 8038
				„Other off-balance sheet values”
➤ Are illustrate the receivable rates invoice, including the proper interest:				
4111	=	%		4111
„Customers”		2675		„Customers”
		„Loans granted on long term”		%
		766		706
		„Interest incomes”		„Rental and royalty income”
		4427		2674
		„Output VAT”		„Accrued interest on long term loans”
				4427
				„Output VAT”
~ Same time, are decrease the receivable interest (after 01.01.2006) or are registered as income the biling interest (before 01.01.2006):				
C: 8052		„Input interest”		472
				=
				766
				„Deferred income”
				„Incomes from interest”
~ Accordingly to the rates are decrease the extra-accounting value, representing the acquisition cost of transport vehicle given in leasing:				
				C: 8038
				„Other off-balance sheet values”
~ Illustrating the decrease of receivable registered in debt of account no.2673, with the part-share from the billing incomes registered in credit of account no. 706:				
		6588		=
		„Other exploiting expenses”		2673
				„Loans granted on long term”
➤ At the end of leasing contract with the billing residual value is recorded also the transfer of property rights from the lessor to tenant:				
4111	=	%		4111
„Customers”		2673		„Customers”
		„Loans granted on long term”		%
		4427		2673
		„Output VAT”		„Loans granted on long term”
				4427
				„Output VAT”

~ Same time , are decrease the extra-accounting value of transport vehicle delivery in lesing regime, afferent to residual value:

C: **8038** „Other off-balance sheet values”

3.2. Economical operations to the user (tenant):

a) after 01.01.2006

b) before 01.01.2006

➤ Are illustrating the receive of transport vehicle from the lessor:

2133	=	167		2133	=	167	
„Transport vehicle”		„Other loans and similar debts”		„Transport vehicle”		„Other loans and similar debts”	

~ Same time , are illustrated the due interest:

D: 8051 „Interests to pay”		471	=	1687
		„Accrued expenses”		„Accrued interest on other loans and similar debts”

~ Same time, are regisrered extra-accounting the value of receive transport vehicle, including the interest value:

D: **8036** „Royalties, rents and similar debts”

➤ Monthly, are illustrating the transport vehicle amortization:

6811	=	2813		6811	=	2813	
„Amortization of non - current assets”		„Amortization of plant and machinery, motor vehicles, animals and plantations”		„Amortization of non - current assets”		„Amortization of plant and machinery, motor vehicles, animals and plantations”	

➤ Has the payment duty accordingly tho the billed rated by the lessor:

%	=	404		%	=	404	
167		„Suppliers of non-current assets”		167		„Suppliers of non-current assets”	
„Other loans and similar debts”				„Other loans and similar debts”			
666				1687			
„Expenses with the interests ”				„Accrued interest on other loans and similar debts”			
4426				4426			
„TVA deductibilă”				„Input VAT”			

~ Same time, are decrease the interest to be paid (since 01.01.2006) or are registered on the curent expenses the billed interest (before 01.01.2006):

C: 8051 „Interests to pay”		666	=	471
		„Expenses with the interests ”		„Accrued expenses”

~ Corespondent to billing rates are decrease the extra-accounting value of obligation (the part side from the received good value and the interest):

C: **8036** „Royalties, rents and similar debts”

➤ At end of financial leasing contract, same time with receiving the invoice for residual value are obtained the property right on the respective good, registering thus:

%	=	404		%	=	404	
167		„Suppliers of non-curent assets ”		167		„Suppliers of non-curent assets ”	
„Other loans and similar debts”				„Other loans and similar debts”			
4426				4426			
„Input VAT”				„Input VAT”			

~ Same time, are decrease the extra-accounting value afferent to residual value:

C: **8036** „Royalties, rents and similar debts”

❖ In the case that *leasing society has the social residence in community area* to the user are made the following changes:

- Receiving invoice for leasing rates from the lessor:
 167 „Other loans and similar debts” = 404 „Suppliers of non- current assets”
- Retaining of taxes on non residential incomes in the moment of invoice receiving from the external lessor:
 404 „Suppliers of non- current assets” = 446 „Other taxes and similar liabilities”
 – *distinct analytic*
- Illustrating the value added tax afferent to capital rate:
 4426 „Input VAT” = 4427 „Output VAT”
- Payment of taxes on non-residential incomes until the 25 th of the following months :
 446 „Other taxes and similar liabilities” = 5121 „Cash at bank in lei”
 – *distinct analytic*
- Payment of invoice to the lessor, unless the tax on non-residential persons:
 404 „Suppliers of non- current assets” = 5124 „Cash at bank in foreign currencies”
- ❖ In the case that ***leasing society has the social residence in community area*** to the user are made the following changes:
 - Illustrating the custom duty which are computed to the initial value of transport vehicle:
 2133 „Transport vehicle” = 446 „Other taxes and similar liabilities”
 – *distinct analytic*
 - Payment of value added tax and the custom duties (the value added tax are establish taking into account the residual value and the custom duties):
 % = 5121 „Cash at bank in lei”
- 4426 „Input VAT”
- 446 „Other taxes and similar liabilities”
 – *distinct analytic*

4. The influence of financial leasing on the yearly financial situations

From the records we made previously, we would established that before 01.01.2006 how reflection in accounting at both to the owner (lessor) and user (tenant) presents a series of ***shortcoming/lacks*** such as:

- ✓ making a greater number of records involving accounts which amends the balance sheet, such as: 472, 2674, 471, 1687;
- ✓ artificially increase in both the revenue and expenditure leasing companies using accounts: 706 and 6588;
- ✓ increasing indebtedness of the user's receipt of the property, interest on the leasing contract by using account 1687;
- ✓ growth of payment capacity of i leasing company using account 2674 reflecting interest receivable.

To remove these shortcomings the ministry of public finances through Order no. 1752/2005 regarding on accounting rules in accordance with EU directives simplified method of coverage in accounting operations of financial leasing so the income, expenses, claims and debts of units that are partners in a contract of one such should not be increased in artificially manners.

Financial leasing ***put their imprint on the financial statements***, so:

- ✓ to presentation of claims in the balance sheet, the owner takes account of the delimitation on the basis of their maturity, namely: to financial fixed assets comprise fixed claims related financial leasing contract with maturity of more than a year, and those with maturity less than one year are included in category claims;
- ✓ the user in his turn will reflect the two distinct positions of the balance of debts that derive from purchase of goods whose term reimbursement (payment) is more than a year, less than a year;

- ✓ to level units whose main activity is financial leasing business, turnover includes net income from interest on leasing contracts and income from other activities related to secondary leasing activity.

5. Tax issues on the financing through leasing

In terms of fiscal note some *aspects* of the financing through financial leasing, namely:

- value added tax charged is determined by applying the legal share to the computing base that includes the cost of acquisition, provided that interest associated to rates due are not included in the taxation of value added tax;
- leasing of immovable property falls within the category of transactions exempt from value added tax;
- for goods purchased from the Community applies self charged procedure of invoicing on value added tax (reverse charge);
- acquisition of leasing space outside the Community fall within the scope of value added tax base and represents a residual value and customs duties (customs duties shall be determined taking into account the value of goods received initial financial leasing);
- where the company is leasing foreign legal entity with its headquarters abroad, the tenant is required to calculate and to pay income tax on non-residents to be withheld from the amount due to the lessor;
- depreciation of assets which are subject to a financial leasing contract is entered by the user, and the expense is deductible from the tax;
- interest negotiated between the parties related financial leasing contract is also deductible from the tax loans from non-bank financial institutions, were not taken into account when determining the degree of indebtedness of the entity;
- providing/ensuring goods taught leasing falls the task owner, but the cost of insurance is borne by tenant;
- during the all period ongoing contract leasing fee on means of transport is caused by a user.

6. Conclusions

The leasing generally and financial specially means a particular way of acquisition of fixed assets by entities, constituting a modern technical and funding an alternative financing of investments.

Regardless of legislative changes such as accounting and tax and the conditions imposed to non-bank financial institutions that work credit activity through leasing, referring to the organisation and functioning, we can say that the leasing companies and users have adapted quickly taking consider that this form of financing advantages for both the lessor and for the tenant.

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