Although it is not clearly specified, it seems that non-resident companies registered for VAT purposes in Romania would be required to submit SAF-T starting from 1 January 2025.

It is proposed that the reportable information within SAF-T for non-Romanian taxpayers registered for VAT purposes in Romania, with no obligation to prepare Romanian accounting, is the following:

→ Header

→ Master files with specific subsections:
- Tax table
- UOM table (unit of measure table)
- Products

→ Source documents with the following subsections:
- Sales invoices
- Purchase invoices

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Ukraine

Taxation of motivational fees

The payment of motivational fees (premiums, bonuses, other incentives) is a method of promoting the supplier's goods (works, services) on the market, which is actively used in Ukraine and around the world. Motivational fees are usually paid by suppliers to distributors for achieving specific indicators, such as fulfilment of purchase or sales plans, keeping specified stock levels or making early payments etc.

At the same time, Ukrainian legislation does not clearly define payment of motivational fees as subject to VAT taxation. In this regard, there have been for some time 2 opposing approaches regarding the VAT treatment of motivational fees in Ukraine.

Approach 1 – Payment of motivational fees is subject to VAT taxation

Under the general rule, the supply of goods/services in the territory of Ukraine shall be subject to VAT. And the tax code of Ukraine provides for quite a broad definition of what shall be recognised as the "supply of services", i.e. any transaction that is different to the "supply of goods".

Such a broad definition allows considering almost any payment between 2 parties as remuneration for a supply of services (with some exceptions). Since the principal purpose of motivational fees is to stimulate the sales of goods on the market, local tax authorities have often considered motivational fees as remuneration paid by suppliers for marketing services, consequently being subject to VAT taxation.

Approach 2 – Payment of motivational fees is not subject to VAT taxation

Even taking into account such a broad definition of the term "supply of services" in the tax code of Ukraine, a supply of services is a two-way transaction. If suppliers during the transaction on payment of motivational fees do not receive at least something from the distributor, a transaction cannot be recognised as a "supply of services".

Therefore, additional bonus remunerations or premiums paid by suppliers to distributors in accordance with the terms of distribution agreements (or separate agreements between the parties) shall not be regarded as a separate service in the field of marketing.

Given the above and depending on the wording of the distribution agreement, motivational fees received by distributors in connection with achieving specific indicators could have been treated by local tax authorities as not subject to VAT taxation.

Position of the Supreme Court

After lengthy court disputes with tax authorities and inconsistent court practices, the question of whether motivational fees can be considered as remuneration for marketing services triggering VAT taxation was referred to the Judicial Chamber for Taxes, Fees and Other Mandatory Payments of the Supreme Court. In June 2021, the Supreme Court took the final position on this issue.

The Judicial Chamber of the Supreme Court expressed a legal opinion that motivational fees received under a distribution agreement for achievement of specific indicators by distributors shall be considered as remuneration for marketing services (i.e. promotion of goods on the market) that is subject to VAT taxation under the tax code of Ukraine.

Legal opinions of the Supreme Court are obligatory for all the governmental authorities when applying relevant provisions of law. Thus, the ambiguous tax treatment of transactions on payment of motivation fees which has caused a lot of trouble for taxpayers has finally been settled by the Supreme Court.

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