

## PARTNER CONTENT

## Cash accounting scheme for VAT – a new reality

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After much speculation, the Fiscal Code amendments implementing the special cash accounting scheme for VAT were finally published at the end of August

Long awaited as the solution for a simpler, more cash-flow friendly system for small and medium taxpayers, the measure has been expected to bring a needed flow of oxygen.

But as always, the devil is in the details... Given the great number of entities affected, it is crucial to understand what the changes entail, as well as the preparations which need to be made.

### Scope and entry into force

The new provision enters into force as of January 1, 2013.

While the VAT Directive provided for an optional scheme, its implementation into the legislation has made the scheme mandatory for a large number of companies (estimated at roughly 90%).

The scheme applies to entities with a turnover below RON 2,250,000 in the period October 2011 – September 2012 (a notification must be filed by October 25, 2012). In going forward, the scheme will also be applicable to entities with a previous year threshold below the mentioned one, as well as to entities which register for VAT purposes throughout the year.

The scheme does not apply for all supplies (such as transactions with related parties, most cases where payment in cash occurs, etc), which is likely to complicate the practical implementation.

### Envisaged mechanism

Under the new mechanism, VAT becomes chargeable upon encashment of the issued invoices, but no later than 90 days from the date the invoice was raised (or should have been

raised). As such, the title of “cash accounting scheme” is misleading, as the encashment moment does not always correspond to the VAT liability. In addition, input VAT deduction is blocked both for the customer (until the payment is performed), as well as for certain acquisitions of the entity applying this scheme (again, until payment).

Intricate mechanisms are applicable in case of transaction adjustments (price increases/decreases, annulments, etc), as well as for transitory measures (invoices issued/payments made under current rules in connection to transactions to be performed under the new rules).

### Impact and challenges

Going beyond the concerns related to the compatibility of specific provisions with the VAT neutrality principle (e.g. the supplier has to pay VAT after 90 days regardless of encashment, while the beneficiary cannot deduct VAT until the payment date), the transition to the new system is likely to entail huge administrative efforts and notable costs for companies.

Having in mind the approaching implementation deadline, which overlaps with an already busy period for accounting and tax personnel, it is crucial for companies to clearly identify the steps which need to be followed in order to be compliant.

As a first step, transactions will need to be mapped in order to assess the future treatment (difficult at this stage, due to lack of application norms).

As a second step, the accounting and tax software will need to be reconfigured, as the future VAT ledgers cannot be automatically extracted from the information currently available (with related costs and bottlenecks). A quick fix may be the manual processing of the adjustments entailed by the new scheme, but this entails an additional workload, increased risk of errors and it may simply not be feasible for large companies (which are impacted as well, for the acquisitions made from companies falling under the new scheme).

In such circumstances, a true “flow of oxygen” would be the amendment of the legislation in order to allow the implementation of this scheme on an optional basis.

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**8. Gabriel Biris**, partner, Biris Goran **9. Florentina Susnea**, general director, PKF Finconta **10. Serban Toader**, senior partner, KPMG **11. Alexandru Onuta**, manager, NNDKP Consultanta Fiscala



Biris argued that reverse taxation would drastically reduce VAT fraud. He said that Romania is able to collect only 54 percent of the VAT that should be normally obtained. This creates a loss of EUR 4 to 5 billion, which is roughly the size of the country's budget deficit.

“Because of the way VAT works, the fraud opportunity emerges legally, through a different regime of intra-community transactions versus national deliveries. You have an intermediary that buys from the EU without VAT, sells internally with VAT, collects the VAT, doesn't pay, disappears, and the state has to reimburse,” said Biris.

The Council of the European Union says the VAT design creates a fraud opportunity that results in EUR 110 million annual loss to the EU budget, according to Biris.

### British is best for small companies

The Romanian Government is considering a flat rate scheme on VAT, based on the UK model. The rate aims to help small businesses by taking some of the work out of recording VAT sales and purchases, according to Oanea of Baker Tilly. “The government is currently looking at the UK model in which a lower flat tax on VAT is applied against the standard one and this would apply to the turnover or total collection, depending on the tax base for the selected VAT,” said Oanea. “We wouldn't be interested in this case in deductions, so there would be no difference between deductible and collected VAT.”

Oanea said the main benefit for companies is that they save time, adding

that the flat tax rate depends on the sector of activity. Acquisitions of capital goods and intra-community goods, along with the acquisition of services that have reversed taxing, would be excluded from this scheme.

### Deducting R&D

Romania is trying to support companies that have research and development (R&D) operations and has increased the deductibility of these expense from 20 to 50 percent.

“This can lead to job creation and stimulate the hi-tech sector,” said Serban Toader, senior partner at KPMG, the professional services firm. He called this measure “salutary” for the business environment as the Fiscal Code is harmonized with R&D legislation.

KPMG has been doing some development of its own. The firm has been working for over a year on a tax application for smart phones and tablets called Tax Express. The app is in beta mode and is due to be launched later this month.

### Fiscal trends

The fiscal procedure code has this year undergone changes in the operations of transfer pricing and the fiscal authorities are paying close attention to offshore transactions, according to Cristian Radulescu, partner at Taxhouse - Taxand Romania, an advisory firm.

“The fiscal authority will be able to request a transaction file with countries that don't have a double taxation system,” said Radulescu. He added that fiscal administrations in the EU have stepped up their cooperation.