

COMPARATIVE STUDY CONCERNING THE PROFIT TAX AND TAXATION IN THE ACTUAL INCOME SYSTEM OF INCOME FROM INDEPENDENT ACTIVITIES

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***Abstract:** This paper aims at making a comparison between the profit tax and the tax on the income earned from independent activities calculated in the actual system. We will highlight, in this paper, the similarities and differences between the two categories of taxes in relation to: taxpayers, tax rate, tax base, calculation, income statement and payment term. In order to exemplify how the theoretical notions are applied, we will present actual cases from the activity of the taxpayers subject to the study of this paper.*

Keywords: tax, profit, profit or loss, fiscal, income, expenses

JEL Classification Codes: M41, K34.

1. THE COMPARISON METHOD

The comparative analysis of two different taxes facilitates the tax knowledge deepening. Finding the similitude of the tax rules and also the remarkable differences between the two taxes is the reason for which the approach of this topic proved to be a pleasant task.

In the case of the profit tax, the taxpayers are Romanian and foreign legal entities who meet the requirements provided in Art. 14 in the Fiscal Code.

In the case of the income tax calculated using the actual income system, the taxpayers are natural persons who earn incomes from liberal professions and trade activities. Liberal professions are mandatorily taxed in the actual income system. Traders are included in the actual income taxation system if in the previous year they exceeded a turnover of 100,000 Eur.

The actual income taxation system also includes incomes similar to those from self-employment earnings, such as, for example: incomes from the concession of goods for a number of more than 5 contracts, incomes from rental of more than 5 rooms for tourism purpose.

2. SIMILARITIES AND DIFFERENCES CONCERNING THE CALCULATION, DECLARING AND PAYMENT

The tax rate in the case of profit tax is 16% and it is applied to the profit or loss. By way of exception for the taxpayers who carry out businesses such as night bars, night clubs, casinos, discotheques, if the profit tax owed for the aforementioned business is less than 5% of the respective incomes, they must pay a tax rate of 5% applied to those incomes entered in the accounts. In the case of the income tax calculated in the actual income system, the tax rate is 10% and is applied to the net income. The synthesis of the aspects pertaining to the two taxes is shown in the next figure.



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Tax calculation	
Profit tax	Income tax calculated in the actual income system
16% *profit or loss	10%* net income

Figure no. 1 Tax calculation

We can notice that, in the case of the profit tax, the tax rate is applied to the financial income or loss, while in the case of the income tax, the tax rate is applied to the net income.

The financial profit or loss and the net income are determined based on similar rules. In order to support this statement, we will present the rules underlying the calculation of the two values.

In the case of the profit tax, the profit or loss is calculated as the difference between the incomes and expenses entered in the accounts in compliance with the applicable accounting regulations, from which the from which non-taxable income and tax deductions are subtracted and to which non-deductible expenses are added. When the financial profit or loss is determined, elements similar to income and expenses are also taken into account, according to methodological rules, as well as fiscal losses. The positive tax result is taxable profit and the negative tax result is the fiscal loss.

In the case of independent activities, the net income determined in the actual income system, based on the accounting data, is calculated as the difference between the gross income and the deductible expenses incurred for the purpose of generating income.

We can notice that, in both situations, the data are taken from the accounting records, the taxable amount is represented by the difference between incomes and expenses with the corrections provided in the Fiscal Code and its adjacent norms.

In the case of the profit tax, we calculate the taxable incomes as the difference between the total incomes and the non-taxable incomes, and the result of this difference is the equivalent of the notion of gross income which is taken into account in the calculation of the tax on self-employment earnings.

In both cases, we notice the notion of deductible expenses, these expenses being admitted for the calculation of the financial profit or loss and, implicitly, for the calculation of the net income.

The inclusion into the category of deductible expenses is based on the principle of connecting the expenses with the taxable incomes, which means that the tax deductibility of expenses is allowed only for those expenses that are related to taxable income. The fiscal deductibility of the expenses provided by law is also allowed.

Thus, we will find the expenses with limited tax deductibility, which we will analyze comparatively for the two categories of taxes.

Protocol expenses:

* in the case of taxpayers who pay profit tax, the protocol expenses are deductible within the limit of a 2% rate applied to the accounting profit to which the profit tax and the protocol expenses are added. Protocol expenses also include expenses recorded with the value added tax collected in compliance with the provisions of the Fiscal Code, Title VII, for presents offered by the taxpayer, with a value exceeding 100 RON;

* in the case of natural persons earning self-employment incomes, taxed in the actual income system, the protocol expenses are deductible within the limit of the 2% rate from the calculation base determined in compliance with paragraph (6).

According to the provisions of art. 68 para. 6) of the Fiscal Code, the calculation base is determined as the difference between the gross income and the deductible expenses, other than sponsorship, patronage, private scholarship and protocol expenses.

The limit of the tax deductibility of the protocol expenses	
Profit tax	Income tax calculated in the actual income system
2%*(gross profit + protocol expenses)	2%*(Gross income – deductible expenses other than sponsorship expenses and protocol expenses)

Figure no. 2 The limit of the tax deductibility of the protocol expenses

We can notice that, in both cases, the base to which the 2% rate is applied is not diminished by the tax expenses and protocol expenses. Moreover, in the case of natural persons, the calculation base of the protocol expenses is not influenced by the sponsorship expenses.

Social expenses have purposes that are clearly defined by Art. 25 of the Fiscal Code and are not applicable to both categories of taxpayers, the limit of the tax deductibility being of up to 5% of the annual value of the expenses incurred with the personnel salaries.

The limit of the tax deductibility of the social expenses	
Profit tax	Income tax calculated in the actual income system
up to 5% of the annual value of the expenses incurred with the personnel salaries	

Figure no. 3 Tax deductibility of the social expenses

Sponsorship, patronage and private scholarship expenses:

- in the case of the profit tax, they are non-deductible and are decreased from the profit tax calculated by applying the 16% to the financial profit or loss within the limit of the minimal amount resulting from the following two calculations: 0.75% of the turnover without exceeding 20% of the profit tax owed;
- in the case of the self-employment income tax calculated in the actual income system, they are deductible expenses with a deductibility limited to 5% of the calculation base determined in compliance with Art. 68 para. (6) of the Fiscal Code.

Sponsorship, patronage and private scholarship expenses	
Profit tax	Income tax calculated in the actual income system
Non-deductible in the calculation of the financial profit or loss	Limited deductibility
They are decreased from the tax at the level of the minimal amount resulting from the following two calculations: 0.75% of the turnover, without exceeding 20% of the calculated profit tax.	5%*(Gross income - deductible expenses other than sponsorship expenses and protocol expenses)

Figure no. 4 Fiscal inclusion of the sponsorship expenses

Expenses incurred for road motor vehicles that are not used exclusively for business purposes, with a total maximum authorized mass that must not exceed 3,500 kg with 9 passenger seats, including the driver's seat, owned or used by the taxpayer, are 50% deductible for both categories of taxpayers. The expenses falling under these provisions do not include depreciation expenses.

Under the provisions of Art. 28 para. (14) of the Fiscal Code, for these vehicles, depreciation expenses are deductible within the limit of the amount of 1,500 RON/month.

Case study concerning the calculation of the profit tax

A taxpayer registered as taxpayer paying profit tax achieved, in 2021, the following indicators: Total income 20,000,000 RON; Total expenses 19,800,000 RON. The total expenses include the following peculiar cases: protocol expenses 58,000 RON; personnel salary expenses 1,800,000 RON; social expenses 18,000 RON; sponsorship expenses 128,000 RON. The total income includes a turnover of 19,950,000 RON.

Based on the available data, we will calculate the financial profit or loss.

Table no. 1 Fiscal analysis of expenses

It. No.	Name	Total -RON-	Deductible -RON-	Non-deductible -RON-
1.	Protocol expenses	58.000	5.160	52.840
2.	Social expenses	18.000	18.000	
3.	Sponsorship expenses	128.000		128.000
Total		204.000	23.160	180.840

Calculation note: Deductible protocol expenses $(20.000.000-19.800.000+58.000)*2\%= 5.160$ RON; Cap for the tax deductibility of social expenses $1.800.000*5\%= 90.000$ RON

Table no. 2- Profit tax

It. No.	Indicator	Amount -RON-
1.	Total income	20.000.000
2.	Total expenses	19.800.000
3.	Non-deductible expenses	180.840
4.	Financial profit or loss 1)-2)+3)	380.840
5.	Profit tax 16%*4)	60.934
6.	Sponsorship expenses to be decreased from the tax	12.187
7.	Profit tax to be paid to the state budget 5)-6)	48.747

The sponsorship expenses that are decreased from the profit tax: Turnover 19,950,000 RON*0.75%=149.625 RON; 20%*Calculated tax 60.934 RON =12.187 RON; 12.187<149.625 RON.

The profit tax payable for the first 3 quarters is declared and paid until the 25th day of the month following the one in which each quarter ends, while the annual profit tax is declared until

25th March of the following year. Until this date, the difference between the annual profit tax and the profit tax declared for the first 3 quarters is paid.

Case study concerning the calculation of the self-employment income tax

A natural person earning incomes from liberal professions for which the taxable net income is calculated in the actual income system. In 2021, this person achieved the following indicators: gross income 280,000 RON, total expenses 42,000 RON. The total expenses include the following peculiar cases: fuel consumption for a car that is not exclusively used for carrying out the professional activity 5,500 RON; depreciation corresponding to the 12 months 21,000 RON. The other expenses are deductible in the calculation of the annual net income. Based on the available data, we will calculate the income tax.

Table no.3- fiscal analysis of expenses

It. No.	Name	Total -RON-	Deductible - RON-	Non- deductible -RON-
1.	Fuels	5.500	2.750	2.750
2.	Depreciation expenses	21.000	18.000	3.000
3.	Other expenses	15.500	15.500	
Total		42.000	36.250	5.750

Expenses incurred for fuel consumption are 50% deductible $*5.500=2.750$ RON; depreciation expenses are deductible up to $1.500/ \text{RON}/\text{month} * 12 \text{ months} = 18.000$ RON.

Table no. 4- Income tax

It. No.	Indicator	Amount -RON-
1.	Gross income	280.000
2.	Deductible expenses	36.250
3.	Net income	243.750
4.	10% tax * 243.750	24.375

The income tax is declared using the single statement by 25th May of the following year and is paid by the maximum single statement submission deadline.

3. CONCLUSIONS

Following the analysis of the fiscal aspects concerning the taxation of the profit and of the net income earned from self-employment activities, we can conclude that, out of the two forms of organization of business entities, the natural persons earning incomes from self-employment activities benefit from a more advantageous system. A first reason would be the tax rate which, in the case of the natural persons taxed in the actual income system, is 10%, compared to 16% in the case of legal entities paying profit tax. The taxation base is calculated based on similar rules,

we should remind here the case of the protocol expenses and social expenses that are deducted within similar limits.

For the road motor vehicles that are not used exclusively for business purposes, with a total maximum authorized mass that must not exceed 3,500 kg with 9 passenger seats, including the driver's seat, the corresponding expenses incurred for maintenance and operation are 50% deductible for both categories of taxpayers.

Natural persons earning incomes from self-employment activities in the actual income system calculate taxes based on the data available in the accounting records in the single-entry bookkeeping system or can choose to use the double-entry bookkeeping without having the obligation to prepare annual financial statements. From this point of view as well, taxpayers who pay income taxes calculated in the actual income system are privileged. We support this statement by reminding that legal entities are included in the category of entities that have the obligation to use the double-entry bookkeeping system and to prepare annual financial statements.

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