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Inverted taxation for grains and oilseeds

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Report Highlights:

A simplified Value Added Tax (VAT) collection regime will be applied in Romania by companies involved in grains and oilseeds trading starting with June 1, 2011. Per the general tax rules, transactions bear VAT regardless the link of the chain. Per the new rules, only the final beneficiaries of the grains and oilseeds, in their raw forms, will collect VAT. The simplified system, which is meant to discourage the tax evasion occurring preponderantly during the harvesting season, will be in place for two years. Ministry of Finance forecasts that state revenues will surge by almost 300 million USD during the derogation period.

General Information:

According to some estimates, the tax evasion in grains and oilseeds sectors reaches about 20% of the total market or about 2 billion USD. Part of this evasion is related to the practice of collecting VAT on sales without transferring the respective amount in the state account. The phenomenon was amplified by the increasing grains prices and the VAT percentage change from 19 to 24 percent last summer.

In July 2010, in an effort to reduce the tax evasion flourishing in the sector of primary agricultural products, the Romanian Government proposed the inverted taxation through the Emergency Ordinance 54/2010. The list of products to be affected included not only commodities, such as grains, oilseeds, sugar beet, vegetables, fruits but also processed products, such as flour, bread and bakery products, meat, sugar. In order to apply this system, Romania requested derogation from the European Commission/DG Taxation and Customs Union (DG TAXUD) per article 193 of Directive 2006/112/CE.

Six months later, in January 2011, DG TAXUD announced that it supports Romania's request but only for a limited series of products, grains, oilseeds and sugar beet. Millers and bakers' associations, which estimate that a large part of the tax evasion (approximately $375 million) is concentrated in the milling and bakery sector, were dissatisfied by the exclusion of processed products.

Following the European Union green-light for the simplified VAT system, the Romanian Government approved at the end of May 2011 the Emergency Ordinance 49/2011 creating the legal framework for implementing the inverted taxation. The new tax system will be applied for 2 years, June 1, 2011 through May 31, 2013 and concerns the following products: wheat, rye, barley, corn, soybeans, rapeseeds, sunflower seeds, and sugar beet. The inverted taxation is already applied on transactions with wood products.

Inverted taxation: how it works and who is affected

The inverted taxation will be applied by all players conducting transactions in grains and oilseeds sector, in the raw form. Transactions between agricultural producers and their customers as well as between importers and their customers will not include VAT, hence the major incentive for tax evasion is eliminated. However, the invoices will contain the note "Inverted taxation", so that the fiscal authorities will have a clear picture of the transactions affected by this system. Further on the channel, millers who purchase the raw commodities without VAT will issue invoices containing VAT when marketing the processed products.

The new measure will produce immediate positive effects for grains exporters, who were facing long delays in getting VAT reimbursed by the Romanian Government for their exports. US trading companies with presence in Romania welcome the new regulation, especially in the context of growing grains exports and implicitly increasing VAT amount to be refunded. On the other hand, the new system may generate cash-flow difficulties for farmers, who will be now in the position of asking tax authorities to reimburse them for the VAT associated with their inputs purchases. Farmers' associations are persuading the Romanian Government for reducing the VAT refunding waiting period from over several months to 45 days.

In addition to the improved monitoring that tax authorities will have on the companies dealing with grains and oilseeds, Ministry of Finance forecasts that state revenues will grow by 83 million USD in 2011, 140 million in 2012 and 59 million in 2013.