

# Decision of the Central Fiscal Commission regarding the CJEU cases Tulică and Plavoşin

26 January 2015

## In brief

Order of the Minister of Public Finance No. 1820/30.12.2014, clarifies the determination of output VAT related to taxable supplies of goods/ services.

## In detail

The Central Fiscal Commission clarifies the determination of output VAT, based on the decision of the Court of Justice of the European Union in the joined cases C-249/12 and C-250/12, Corina-Hrisi Tulică and Călin Ion Plavoşin.

According to the decision of the Central Fiscal Commission, VAT related to taxable supplies of goods /services is determined, based on the parties' will, as follows:

- If the agreement between the parties does not include VAT in the value of the supply, the VAT rate is applied to the value of the supply;

- If the parties have not come to an agreement with respect to VAT and the supplier cannot recover it from the client, the VAT is determined by applying the gross-up method. The supplier's statement of own responsibility may be considered proof that it cannot recover the VAT from the beneficiary.
- If both parties agreed that VAT is included in the value of the supply, the VAT is determined by applying the gross-up method.

[Source: Official Gazette No. 20 of 12 January 2015, Order No. 1820/30.12.2014 regarding the approval of the Decision of the Central

Fiscal Commission No. 6/2014 amending the interpretation and implementation of the provisions of the Fiscal Code and of the related Methodological Norms applicable for determination of output VAT related to taxable supplies of goods/ services, page 13]

## The takeaway

Under the new provisions, in cases where the parties have not come to an agreement regarding VAT, the output VAT related to taxable supplies of goods / services is determined by applying the gross-up method, if the supplier cannot recover the VAT from the client.

## ***Let's talk***

For a deeper discussion of how this issue might affect your business, please contact:



Mihaela Mitroi, *Partner*  
[mihaela.mitroi@ro.pwc.com](mailto:mihaela.mitroi@ro.pwc.com)



Ionut Simion, *Partner*  
[ionut.simion@ro.pwc.com](mailto:ionut.simion@ro.pwc.com)



Daniel Anghel, *Partner*  
[daniel.anghel@ro.pwc.com](mailto:daniel.anghel@ro.pwc.com)



Diana Coroaba, *Partner*  
[diana.coroaba@ro.pwc.com](mailto:diana.coroaba@ro.pwc.com)

### ***PwC Romania***

*Lakeview Building*  
*301-311 Barbu Văcărescu Street*  
*Sector 2, Bucharest*  
*Tel.: + 40 21 225 3000*  
*Fax: + 40 21 225 3600*

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