
IMPLICATIONS OF ACCOUNTING AND TAX REGULATIONS IN THE ACTIVITY OF RELIGIOUS ESTABLISHMENTS

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Abstract

The importance of religious communities in a nation's social life justifies the state's support of religious entities, including by granting them public funds or fiscal incentives. Thus, in Romania, since 1991, according to the Constitution, ratified international treaties, and numerous laws, public authorities respect and guarantee the fundamental right to freedom of thought, conscience, and religion of each person living within the national borders, and, at the same time, they finance religious establishments that are legally constituted. The system of fiscal incentives granted to these units exempts them from paying the profit tax on the income produced by the manufacturing and exploitation of specific products and on certain revenues derived from carrying out economic activities. Exemption from the value added tax is granted for revenues resulted from the exploitation of religious objects. They are also exempt from paying taxes on some of the buildings and lands that they own. In what regards the structure and management of accounting activities, religious establishments are required to use double-entry bookkeeping if they carry out economic activities or single-entry bookkeeping if they do not carry out such activities. Our contribution, with this study, consists in showing the changes in the position/attitude of the Romanian state toward the religious/cult sector in terms of guaranteeing the fundamental freedoms, by regulations, and of offering effective support to religious establishments, within the context of European integration.

Keywords: religious establishments, conscience, individual freedoms, State-Church relationship, public accounting, budget subsidies, patrimony, taxes

1. Introductory considerations

In modern states, religious communities are recognised their spiritual, educational and social-charitable role, and also their status as factors of social peace. The concept of religious freedom encompasses the right of each individual to have or to assume a religion, to show it individually or collectively,

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in public or in private, and also the freedom to keep or to change one's religious beliefs.

In Romania, since 1991, according to the Constitution [(2003), amended and completed by Revision Law no. 429/2003, republished by the Legislative Council, published in the Official Journal, Part I, no. 767 of 31/10/2003] and ratified international treaties, public authorities respect and guarantee the fundamental right to freedom of thought, conscience, and religion of each person living within the national borders. This means that no one can be prevented or forced to adopt an opinion or to join a religious belief contrary to its convictions [1]. Moreover, no one can be subjected to any kind of discrimination, pursued or put in a situation of inferiority based on one's faith, affiliation or non-affiliation to a group, religious association or cult or on the exercise of religious freedom.

The individual's freedom to manifest religious beliefs cannot be subject to other restrictions than those prescribed by law and are necessary in a democratic society to maintain public safety, to protect public order, health or morals, or to protect the fundamental human rights and freedoms.

2. The nature of the relationships between the state and religious communities

Starting from the fact that the members of society can exercise their respective rights collectively, according to their own convictions, during the last two years, a legal framework has been established to allow the creation of specific religious structures, with or without legal personality. The former category includes religious establishments and religious associations, and the latter religious groups.

Recognised religious establishments are legal persons of public utility that are organised and function under constitutional and legal provisions, autonomously, according to their own statutes and canonical codes (applicable to their members). This also supposes a systematic and well-articulated dialogue between the State and the Church regarding the possibilities and the areas of collaboration between the State and the Church [2].

In Romania, the principle of the separation between the State and the Church is not legally regulated [3]. It should also be noted that there is no state religion, the state being neutral toward any religious belief or atheistic ideology. At the same time, all religions are equal before the law and public authorities, which cannot promote or foster the granting of privileges or the discrimination of any religion.

In 2007, there were 18 recognised religious establishments in Romania [4]:

1. THE ROMANIAN ORTHODOX CHURCH,
2. THE SERBIAN ORTHODOX BISHOPRIC OF TIMIȘOARA,
3. THE ROMAN CATHOLIC CHURCH,
4. THE ROMANIAN CHURCH UNITED WITH ROME, GREEK-CATHOLIC,

5. THE ARCHBISHOPRIC OF THE ARMENIAN CHURCH,
6. THE RUSSIAN ORTHODOX OLD-RITE CHURCH OF ROMANIA,
7. THE REFORMED CHURCH OF ROMANIA,
8. THE C.A. EVANGELICAL CHURCH OF ROMANIA,
9. THE EVANGELICAL LUTHERAN CHURCH OF ROMANIA,
10. THE UNITARIAN CHURCH OF TRANSYLVANIA,
11. THE UNION OF CHRISTIAN BAPTIST CHURCHES OF ROMANIA,
12. THE CHRISTIAN GOSPEL CHURCH OF ROMANIA – THE UNION OF CHRISTIAN GOSPEL CHURCHES OF ROMANIA,
13. THE ROMANIAN EVANGELICAL CHURCH,
14. THE PENTECOSTAL UNION – THE APOSTOLIC CHURCH OF GOD IN ROMANIA,
15. THE SEVENTH DAY ADVENTIST CHURCH OF ROMANIA,
16. THE FEDERATION OF JEWISH COMMUNITIES IN ROMANIA,
17. THE MUSLIM RELIGIOUS COMMUNITY,
18. THE RELIGIOUS ORGANISATION OF JEHOVAH’S WITNESSES.

The status of religious establishment recognised by the state is acquired by Government decision – based on the proposal of the Ministry of Culture and Religious Affairs – by religious associations that, by their activities and number of members, offer guarantees for sustainability, stability and public interest [5]. Recognition of statutes and canonical codes is granted if they do not impinge on public safety, public order, health or morals or on the fundamental human rights and freedoms by their content.

According to the current legal framework, state institutions cooperate with religious establishments in areas of common interest and support their activities.

The same institutions may conclude partnerships with recognized religious establishments in areas of common interest, and also agreements to regulate aspects specific to the tradition of the religious community, which are subject to approval by law.

3. The regime of public financing and fiscal incentives

The law we have previously mentioned states that expenditures for the maintenance of religious establishments and their activities are to be covered primarily from the income of religious communities, created and managed according to their statutes.

Then, in addition, religious establishments may demand contributions from their members in order to support the activities carried out.

On the other hand, public resources are used to pay the salaries of the clerical and non-clerical staff belonging to recognised religious establishments. The same type of support is granted to cover expenses related to the functioning of religious establishments, for repairs and new constructions in relation to the number of members according to the last census and real needs.

The budget allotted to religious establishments is managed by the Financial and Accounting Department within the Ministry of Culture and Religious Affairs [5]. It must allot, after the State budget's approval, the budgetary credits for cults, set the monthly necessary of funds, within the limit of budget credits, by expense accounts and titles, and approve the documents related to payments in its area of competence. The department also makes the inventory of material and financial assets owned or administered by the compartments coordinated by the State Secretary for Religious Affairs. It checks the expense accounts of the business trips made by the personnel of the compartments coordinated by the State Secretary for Religious Affairs, and it pays the salaries and benefits of the staff working in the settlements of the Romanian Orthodox Church situated abroad.

The consequence that intervenes – derived from the use of funds allotted from the state budget or from local budgets - is that the destination of the assets received, to own or to use, from the local or central government must be maintained [4], and that the religious structure that benefits from such support becomes subject to state control.

Subsequently, religious establishments are also compelled to keep financial and accounting records, compulsorily in Romanian, even if religious communities may use any language they consider appropriate in the carrying out of their activities.

In what regards taxation, the state promotes the citizens' support of religious establishments by income tax deductions and encourages the sponsoring of religious communities. According to the Romanian Fiscal Code (with further amendments and annotations) [6], religious establishments are exempt from paying the income tax on the following types of income: income from the manufacturing and exploitation of objects and products necessary for religious activities, income from rents, other revenues from economic activities, income from money damages paid as compensations according to the laws on restoring ownership rights.

These types of income are tax-exempt provided that the corresponding funds are used – during the current year and/or the following years – to support the maintenance and the functioning of religious establishments, to carry out construction, repair or consolidation works in cult and ecclesiastical buildings, to support education, including the maintenance and functioning of the educational infrastructure, to provide social services, to organize specific activities, and other not-for-profit activities of religious establishments.

Profit tax exemption is also granted on revenues from economic activities, obtained during a fiscal year, that do not exceed the equivalent in lei of 15,000 Euro, but not more than 10% of the total income obtained from activities without patrimonial purpose exempt from the profit tax.

The revenues that are not taken into account in determining the taxable profit refer mainly to membership fees and admission charges, donations and sponsorships, dividends/interests gained after placing the available funds resulted from tax-exempt revenues, and the resources derived from public funds [7].

In what regards the legislation regarding the value added tax (VAT), the delivery of religious objects (liturgical vessels, metallic or lithographed icons, crosses, crucifixes, pendants and medallions with pictures specific to the cult, religious calendars, etc.) is not seen as an economic activity [6]. Religious establishments that carry out such activities and whose annual turnover is less than 35,000 Euro are exempt from paying the VAT. This exemption is also maintained for services and/or the delivery of goods offered to the members of religious establishments in their collective interest, according to the statutes and canonical codes of each community.

In terms of excises [6], we note that energy products purchased directly from producers, importers or distributors, used as fuel for the heating systems of religious buildings, including the supply with natural gas, are not liable for taxation.

Other fiscal incentives refer to buildings-places of worship (including bell towers, holy water houses, funeral chapels, and cells), buildings owned by confessional education establishments, except the premises that are used for economic activities, funeral buildings in cemeteries and crematories and lands used as cemeteries.

4. The regime of religious patrimony

Recognised religious establishments and their units may possess and acquire, to own or to use, movable and immovable assets, of which they may make use according to their own statutes [4]. Sacred assets – i.e. those used directly and exclusively by the religious community, established under its own statutes and according to the religious tradition and practices – that are lawfully acquired are intangible, cannot be annulled and can be transferred only under the specific statutory rules of each religious establishment.

This does not affect the restitution of sacred assets wrongfully confiscated by the state during 1940-1989, or of those whose ownership was gained unlawfully.

The local units of religious establishments may possess and maintain, alone or in association with other communities, confessional cemeteries for their members. Confessional cemeteries are managed according to the rules and regulations of the owning religious establishment and the confessional identity of historical cemeteries is protected by law.

The state has established the religious establishments' exclusive right to produce and exploit the objects and goods necessary for their activities; the use of musical works in the activity of recognised religious establishments is not subject to copyright law.

Other important rules with an impact on the religious establishment's patrimony are [4]:

- (a) The assets subject to any kind of input – contributions, donations, successions – and any other assets lawfully included in the patrimony of a religious establishment cannot be subject to any further claims;
- (b) Individuals who leave a recognized religious community cannot claim the patrimony of that religious establishment;
- (c) Disputes over patrimony between recognized religious establishments are settled amicably or, otherwise, under the common law;
- (d) In case of withdrawal of the status of recognized religious establishment or of dissolution, the destination of patrimony is that set by the statute.

Referring to the above mentioned patrimony, religious establishments that carry out economic activities prepare annual financial statements according to the accounting regulations approved by the Ministry of Economy and Finances. For this type of activities, the specific norms are completed with the Accounting Regulations in accordance with the 4th Directive of the European Economic Community [8].

The mandatory requirement is that in all circumstances revenue accounting be carried out distinctively by type of activities, i.e. activities without patrimony purposes, activities with special purposes according to the law and economic activities, and within these categories, by type of revenue, according to their nature. Expenditure accounting requires grouping expenses by their type, i.e. operating expenses, financial expenses and extraordinary expenses.

The completion of the annual financial year requires drawing up the financial statement, the balance sheet and the notes to financial-accounting statements.

We emphasize that the national legislation does not provide the obligation to prepare annual financial statements if the religious establishment carries out only activities without patrimonial purpose, a situation that allows single-entry bookkeeping.

5. Conclusions

Romania's accession to the EU imposed the establishment of a legal framework that allows the creation of specific religious structures, with or without legal personality.

They are deemed to be of public utility, are organised and function autonomously under constitutional and legal provisions, according to their own statutes and canonical codes (applicable to their members). The status of religious establishment recognised by the state is acquired by Government decision – based on the proposal of the Ministry of Culture and Religious Affairs – by religious associations that, by their activities and number of members, offer guarantees for sustainability, stability and public interest.

Only on this basis, supplemented by the requirement to comply with financial and accounting regulations in what regards patrimony, cults can benefit from the regime of budget subsidies and of fiscal incentives that were the focus of this paper.

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