

INVESTMENT GOLD: EXEMPTION FROM TAX (VAT) IN THE ROMANIAN FISCAL SYSTEM

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“Gold”, the precious metal, does not deteriorate in time, as is the case with other metals; gold has a high value per volume unit, meaning that a very small quantity of it has a relatively high purchasing power. This argument, along with other such advantages identified throughout history, have made the purchase of gold one of the best methods to preserve wealth in time. Even today, investment gold is of particular interest for certain customers/operators, as the authenticity of bullion gold bars is rather easily ascertained, due to the applied markings and the related certificates. Our approach in the present paper mainly relates to the regulatory framework of gold operations as set by state governments, particularly highlighting the specific taxation regulations – their exemption from Value Added Tax. However, before getting into such details, we will first focus on the development of the above mentioned transactions as well as on certain price related issues, etc.

Key words: bullion gold bars, coins, jewellery, storing-trading, taxation

GENERAL INFORMATION CONCERNING GOLD TRANSACTIONS

The regular long and short term purchase of gold as currency is meant to lead to the preservation of the investors' wealth, as stated by numerous authors [1-3]. Gold is actually believed to be a most adequate investment in times of crisis, when most financial assets are subject to depreciation. For instance, a single financial institution on the Romanian financial market has sold more than two tons of gold, worth about 300 million lei during the period 2009 - 2013 (a time interval defined as afflicted by the *crisis*). [4]. The classical method used by the customers in this respect is the acquisition of gold bars, coins or jewellery (Figures 1-3), as part of transactions conducted in compliance with strict legal requirements [5].

However, since such purchases are somehow hindered by issues related to proper storage, there are other special products designed by financial institutions which arrange for *special package offers*, providing both the physical gold and the safe deposit boxes especially designed for storage, based on safe custody agreements. Banks frequently offer their clients the opportunity to purchase Gold Index Certificates based on gold and whose price reflects the value of a gram of gold in monetary units. The price in question is related to the evolution of *physical gold (PG)* while certificates have the same rate of return as PG, but without the additional



Figure 1 Gold bars [4]



Figure 2 Gold coins [6]

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Figure 3 Gold jewellery [7]



Figure 4 Evolution of the gold price: 1973 - 2013 [12]

costs related to storing, insurance, transport or appraisal [8]. Gold in the form of bullion gold bars and bullion coins is the most common way of investing in this precious metal. Gold in the form of bullion bars has a 99,99 % purity (24 karat) and is usually sold directly by banks or dealers specialised in the sale of gold. The weight of the bullion gold bars ranges between 10 grams to 12,5 kilograms (400 ounces) [9], accompanied by an authenticity certificate. The price of gold has dropped significantly in 2013, but the decrease is more serious as compared to the highs recorded in 2011, when the threshold of \$ 1 920 has been reached for an ounce. The spot price of gold is currently \$ 1 277 for an ounce, while international professionals such as Goldman Sachs or Credit Suisse have predicted that the price might fall to \$ 1 000/ounce by 2014 [10]. Such is the case, after gold has brought investors returns of 20 % - 30 % in the past 12 years [11]. Such severe drops on the gold market resemble the lows recorded in 1979, when the price has dropped by 60 %. The evolution of the price of gold since 1973 to the present day is depicted in Figure 4.

The demand for gold has increased in the past few years, mainly due to investments and gold purchases by Central Banks and not having anything to do with those sectors where gold is thought to have a direct utility – jewellery and industrial demand. Figure 5 depicts the structure of the world gold demand.

Clearly, the price of gold will remain relatively high while economic growth is still rather uncertain. However,

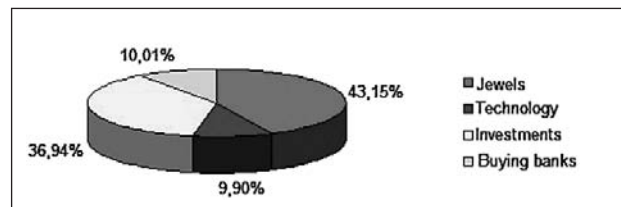


Figure 5 Structure of the world gold demand [13]

when big investors decide to stop investing in gold, its price will drop significantly. As far as supply is concerned, it cannot be defined as limited, since gold is being constantly extracted, and the already available quantities are constantly being reintroduced into circulation.

THE PARTIAL TAXATION OF INVESTMENT GOLD TRANSACTIONS

Investment in physical gold is governed by the provisions of the Fiscal Code, which sets certain specific requirements, exempting investment gold from Value Added Taxes [14]. When investing in gold-based financial instruments, one has to pay only the capital gains tax of 16 % when the asset is sold at a profit. That is the reason why we have chosen to define it as *partial taxation*. Actually, any transaction based on investment gold (gold that exceeds the 99,5 % purity for bullion gold bars and 90 % for bullion coins) is exempt from paying VAT in the European Union, including Romania. According to Romanian taxation regulations [15], investment gold means:

- a) gold, in the form of bullion bars or wafer accepted/quoted on bullion markets, with a minimum purity of 995 thousandths, either as such or in the form of securities, except for bullion gold bars or wafers of a weight of 1g or less;
- b) gold coins that meet the following criteria:
 - b1 – have a purity equal to or greater than 900 thousandths;
 - b2 – are minted after 1 800;
 - b3 – are or have been in legal tender in the country of origin; and
 - b4 – are normally sold at a price that does not exceed the open market value of gold contained in coins by more than 80 %.

In order to implement art.152³ paragraph (1) of the Fiscal Code, the accepted weights on bullion gold bars consist in the measurement units and weights depicted in Table 1.

Table 1 Accepted weights on bullion markets [16]

Unit	Traded weights
Kg	12,5 / 1
Gram	500 / 250 / 100 / 50 / 20 / 10 / 5 / 2,5 / 2
Ounce (1 oz = 31,1035 g)	100 / 10 / 5 / 1 / 1/2 / 1/4
Tael (1 tael = 1,193 oz) (Chinese measurement unit)	10 / 5 / 1
Tola (10 tolas = 3,75 oz) (Indian measurement unit)	10

Special provisions for trading operations

The taxable persons who trade in gold have to keep special records of all transactions of investment gold and must keep all these records in order to allow the ready identification of the customer. These accounts will be kept for at least five years since the end of the year when transactions have been conducted.

Tax exempt operations

The following transactions are exempt from tax [15]:

1. Supply, intra-Community acquisition and imports of investment gold, as well as investment gold operations involving *futures* and *forward* contracts that lead to a transfer of right of ownership or claim in respect of investment gold;
2. Intermediation services in the supply of investment gold, provided by agents who act in the name and for the account of another principal.

When the supply of investment gold is exempt from tax, the taxable person is entitled to certain deductions. Firstly, the tax due or paid (TD/P) for investment gold supplied to them by a person who has exercised the right of option. Secondly, the TD/P for intra-Community acquisition or import of gold which is subsequently transformed into investment gold by them or by a third party on their behalf. And, thirdly, TD/P for services supplied to them, consisting of change of form, weight or purity of gold, including investment gold.

Note: In the case of supplies of gold materials or semi-manufactured products of a purity of 325 thousandths or greater, as well as for supplies of investment gold performed by taxable persons who have exercised the right of option for taxation of supplies to another taxable person, the purchaser is designated as liable for the tax due.

CONCLUSIONS

Gold investment can be a perfectly reasonable solution for customers who wish to preserve part of their own assets during various periods of time. However, as most experts argue [17], the purchase of physical gold raises certain difficulties. Thus, investment in this precious metal is relatively risky, while in terms of the rate of return opportunities, gold is believed to be a conjectural investment – when the choice of other investment options carries greater risks. Consequently, those who wish to trade on this special gold market today, are heading for that type of investment that uses the capital market. In other words, instead of physical gold, the investor relies on derivative financial instruments whose underlying asset is gold. However, regardless of the investors' choice, transactions in investment gold are partially exempt from taxation, and a capital gains tax of 16 % is paid (only when selling *at a profit*). Given the

above mentioned circumstances, we have approached the issue of these transactions by considering the taxation system imposed by the government. The taxation system applied in the EU (including Romania) is rather special. As shown in the paper, the respective regulatory framework provides that any transaction in investment gold (exceeding the purity of 99,5 % for gold bars and 90 % for coins) is exempt from the payment of VAT.

REFERENCES

- [1] M. Opritescu, J. Popescu, A. Manta, Moneda, credit, banci, Sitech Publishing House, Craiova, 2010.
- [2] Cr. Stanciu, Managementul portofoliului de titluri, Universitaria Publishing House, Craiova, 2010.
- [3] Crețoiu, Gh., Cornescu, V., Bucur, I., Economic, C.H. Beck Publishing House, Coll. Oeconomica, Bucharest, 2008.
- [4] Commentary. Available at: <http://www.business24.ro/bcr/stiri-bcr/bcr-a-vandut-pesto-doua-tone-de-aur-incepcand-cu-2009-1532501> (Accessed: 4.07.2013).
- [5] I. Bostan, I. Pohoata, C. Lazar, State control over commercial transactions with goods from precious metals, *Metallurgija* 52(2013)4:553-556.
- [6] A. Dobre, Leii de aur și argint – o soluție pentru Rosia Montana. Available at: <http://www.enational.ro/news/business/leii-de-aur-si-argint-%E2%80%93-o-solutie-pentru-rosia-montana-333725.html> (Accessed: 18.09.2013).
- [7] Commentary. Available at: http://www.click.ro/news/bucuresti/bijuterii_60-000-bijuterii_otopeni_0_1573642665.html (Accessed: 08.2013).
- [8] Premiera pe piața de capital (...). Available at: <http://www.business24.ro/banci/informatii-bancare/premiera-pe-piata-de-capital-bcr-ofera-certificate-index-cu-valoarea-unui-gram-de-aur-1520751> (Accessed: 24.10.2012).
- [9] M. Banita, Cum faci bani din investiții în aur. Available at: http://www.money.ro/investitii-in-aur-lingouri-piete-financiare_629866.html (Accessed: 27.07.2010).
- [10] Commentary. Available at: <http://www.despreinvestitii.ro/5493/graficul-zilei-aurul-in-2013-vs-aurul-in-1979> (Accessed: 24.10.2012).
- [11] Simona Haiduc, Aurul îi dispera pe investitori: Prognozele promit numai pierderi. Available at: <http://incomemagazine.ro/articole/aurul-ii-dispera-pe-investitori-prognozele-promit-numai-pierderi> (Accessed: 20.05.2013).
- [12] Report. Available at: www.gold.price.org (Accessed: 19.06.2013).
- [13] Commentary. Available at: www.finante.azi.ro (Accessed 21.02.2013).
- [14] I. Bostan, A. Morariu, I. Costea, Drept financiar public, Dacia Publishing House, Cluj-Napoca, 2006.
- [15] Legea 571/2003 privind Codul Fiscal, actualizata prin Legea nr. 303 din 15 noiembrie 2013, art.152³. Available at: http://static.anaf.ro/static/10/Anaf/Legislatie_R/Cod_fiscal_norme_2013.htm (Accessed: 21.02.2013).
- [16] Normele metodologice de aplicare a Codului fiscal (HG nr.44/2004), art.65.1. Available at: http://static.anaf.ro/static/10/Anaf/Legislatie_R/Cod_fiscal_norme_2013.htm (Accessed: 21.02.2013).
- [17] Oana Dumitroiu, Ghid pentru investițiile în aur. Available at: <http://www.business24.ro/cet/stiri-cet/ghid-pentru-investitiile-in-aur-vezi-ce-te-sfatuiesc-expertii-1490196> (Accessed: 04.05.2011).

Note: The responsible for English language is the lecture from Faculty of Economics, Suceava, Romania (USV)