

INSTRUCTIONS
for filling in the form (390 VIES) "Summary statement regarding the intra-Community deliveries/procurements/supplies"

1.1. The summary statement is submitted monthly, according to the conditions provided at Article 156⁴ of the Fiscal Code, until the 15th day of the month following a calendar month, by the taxable persons registered for VAT purposes according to Article 153 or Article 153¹ of the Fiscal Code.

1.2. The taxable persons registered for VAT purposes submit the summary statement only for the calendar months in which the tax chargeability occurs for:

a) the intra-Community deliveries of goods exempt from tax under the conditions provided in Article 143 par. (2) letter a) and d) of the Fiscal Code, for which the tax chargeability occurred during the respective calendar month;

b) the deliveries of goods performed within a triangular transaction, provided in Article 132¹ par. (5) of the Fiscal Code performed in the Member State of goods arrival and which are declared as intra-Community deliveries with code T, for which the tax chargeability occurred during the respective calendar month.

c) services supplies provided in Article 133 par. (2) of the Fiscal Code performed for the benefit of certain taxable persons not residing in Romania, but residing within the Community, other than those exempted of VAT in the Member State where they are taxable, for the tax chargeability occurred during the respective calendar month;

d) the intra-Community deliveries of taxable goods, for which the tax chargeability occurred during the respective calendar month;

e) the procurements of services provided in Article 133 par. (2) of the Fiscal Code, performed by taxable persons in Romania who have the obligation to pay the tax according to Article 150 par. (2), for which the tax chargeability occurred during the respective calendar year, from the taxable persons not residing in Romania, but who are residing within the Community.

2.1. The summary statement is submitted electronically, using one of the following methods:

- at the registration office of the competent fiscal body;
- at the post office, by registered mail;
- by SEN;
- by filling in, on the web page of the National Agency for Fiscal Administration.

2.2. The electronic format recorded on electronic support shall be accompanied by the form drafted by the taxable person by means of the assistance program, signed and stamped, according to the law.

The form is drafted in two counterparts:

- one counter part is submitted to the fiscal unit, together with the electronic support;

- one counterpart shall be kept by the taxpayer.

the electronic format of the summary statement is achieved by using the assistance program elaborated by the National Agency for Fiscal Administration and is being sent to the competent body on electronic support.

The program is provided to the taxpayers, freely, by the fiscal units or it may be downloaded from the web server of the national Agency for Fiscal administration, using the address www.anaf.ro

The taxpayers who own a digital certificate may submit the form by electronic means of remote transmission, on the website of the National Agency for Fiscal Administration.

The way of filling in the summary statement

SECTION 1

The box "Reporting period" is being filled in with:

- the year to which the statement refers to; it is written with Arabic numerals with 4 digits (for instance: 2010)
- the reporting period afferent to the operation performed is made of two figures, respectively the digits afferent to the respective month (for instance: for January it shall be written "01").

The statement originally submitted is rectified by submitting a new statement, in the same format, by ticking the appropriate box on the form.

Declared transactions are rectified in the rectifying statement in any previous reporting period and all the columns of the form are filled in with the data valid when the statement is made, regardless whether they were previously declared.

A rectifying statement is filled in for each reporting period in which amendments are performed.

The adjustment is declared for the calendar month in which the tax chargeability occurs, according to Article 134² par. (3) of the Fiscal Code, respectively in the calendar month in which the adjustment was communicated to the customer.

The box "Identification data" contains:

1. Fiscal Identification Code - it is filled in the identification code for VAT purposes of the taxpayer in Romania, assigned according to Article 153 or Article 153¹ of the Fiscal Code.

The writing of the figures into the box is done by using right alignment.

2. "Denomination/Name, Forename" - there are written, as the case may be, the denomination or the name and forename of the taxable person.

3. "The fiscal domicile" - this is filled in with the data regarding the address of the fiscal domicile (the registered office, the headquarters or the fiscal domicile, as the case may be) of the taxable person registered for VAT purposes.

In case of the taxable persons residing abroad, registered directly for VAT purposes in Romania, it is written the address in Romania to which the records and the documents that must be kept may be analysed, according to the provisions of the Article 66 par. (7) letter a) of the Methodological Norms.

In case of the taxable persons residing abroad, who have appointed a fiscal representative, the fiscal domicile of the fiscal representative is being filled in.

In case of the taxable persons who have the registered office outside Romania and who reside in Romania by one or more fixed headquarters without legal

personality, according to Article 125¹ par. (2) letter b) of the Fiscal Code, there is written the fiscal domicile of the fixed headquarter chosen to submit the tax return and to be liable for all the obligations for VAT purposes, according to Article 66 par. (5) of the Methodological Norms.

The box "Statement summary" contains:

- the total number of pages attached to the statement;
- the total number of the intra-Community operators, regardless the number of operations;
- the value of the operations, divided on more types: intra-Community deliveries of goods, subsequent deliveries performed within the triangular transactions, intra-Community deliveries which include exempt transfers, intra-Community deliveries of goods, assimilated intra-Community procurements, intra-Community supply of services, intra-Community procurement of services.

SECTION 2

1. It is filled in with the performed intra-Community transactions, in the following order:

- a) intra-Community deliveries of goods (L);
- b) subsequent deliveries of goods performed within a triangular transaction (T);
- c) intra-Community procurement of goods, procurements which follow after the exempt transfers, procurements performed by the beneficiary of the subsequent delivery during a triangular transaction (A);
- d) intra-Community supplies of services (P);
- e) intra-Community procurements of services (S).

Each page afferent to section 2 shall include in the heading information on the VAT registration code, the afferent period and the page number.

a) Intra-Community deliveries of goods -it is filled in the intra-Community deliveries of goods exempted from taxation, according to the Article 143 par. (2) letter a) and d) of the Fiscal Code, for each buyer, for which the tax chargeability occurs during the respective calendar month, including the amounts in the invoices for the encashments of advance payments for the exempted intra-Community deliveries of goods.

b) subsequent deliveries of goods performed during a triangular transaction - it is written the total amount of the deliveries of goods performed during a triangular transaction, provided in Article 132¹ par. (5) letter), b) of the Fiscal Code, performed by the Member State receiving the delivered or transported goods, for each beneficiary of the subsequent delivery who has chosen a T code, and for which the tax chargeability occurs during the respective calendar month, including the amounts in the invoices for encashments of advance payments for the deliveries of goods performed during a triangular transaction.

It shall be filled in only by the reseller buyer.

c) Intra-Community procurements of goods - there is written the total amount of the intra-Community procurements of goods, for each supplier, for which the taxable person who submits the statement has the obligation to pay the tax

according to Article 151 of the Fiscal Code, and for which the tax chargeability occurs during the respective calendar month, including the amounts in the invoices received for advance payments for the intra-Community procurements of goods.

d) The intra-Community supplies of services - there is filled in the total amount of the supplies of services for which the provisions of the Article 133 par. (2) of the Fiscal Code are applied, other than those exempted of VAT in the Member State where they are taxable, for each customer who is residing within the Community, for which the tax chargeability occurs during the respective calendar month. There shall not be declared the supplies of services provided in Article 133 par. (2) of the Fiscal Code if the beneficiary of the service is a taxable person who is not residing within the Community territory.

e) The intra-Community procurements of services - there is filled in the total amount of the intra-Community procurements of services for which the provisions of the Article 133 par. (2) of the Fiscal Code are applied, other than those exempted of VAT, for each supplier who is residing within the Community, for which the tax chargeability occurs during the respective calendar month. There shall not be declared the supplies of services provided in Article 133 par. (2) of the Fiscal Code if the supplier of the service is a taxable person who is not residing within the Community territory.

The columns "Country" - the code of the country that has issued the VAT registration code of the customer/supplier/provider or the code of the Member State that should have issued this VAT registration code, but because of different reasons it has not been issued or it has not been communicated.

The column "Intra-Community operator code" - has to be entered with no spaces, commas or full stops and is filled in as it follows:

- in case of the intra-Community deliveries of goods (L) performed in Romania - the VAT identification code of the person who purchases the goods in a Member State other than Romania, based on which the supplier in Romania performed for this person a intra-Community delivery free of VAT according to Article 143 par. (2) letter (a) and (d) of the Fiscal Code;

- in case of the subsequent deliveries of goods performed in Romania during a triangular operation (T) - the VAT registration code of the beneficiary of the subsequent delivery, in the third Member State, based on which the reseller buyer in Romania performed for the beneficiary the subsequent delivery;

- in case of the intra-Community procurements of goods, of the procurements which follow the exempt transfers, of the procurements performed by the beneficiary of the subsequent delivery during a triangular transaction (A) performed in Romania - the VAT registration code from another Member State assigned to the supplier who performs the intra-Community delivery;

- in case of the intra-Community supplies of services (P) - the VAT identification code of the person who purchases the services in a Member State other than Romania, based on which the supplier in Romania performed services for this person according to Article 133 par. (2) of the Fiscal Code, other than those free from VAT in the member State in which they are taxable;

- in case of the intra-Community procurements of services (S) - the VAT registration code of another Member State assigned to the provider or, as the case may be, only the code of the Member State where the provider of services is residing, in case the provider is not identified for VAT purposes, but there are enough indications to consider that he is a taxable person.

The column "Type of operation"

L - for intra-Community deliveries of goods to other Member States;

T - for deliveries during a triangular transaction;

A - for intra-Community procurements of goods, procurements which follow after the exempt transfers, procurements performed by the beneficiary of the subsequent delivery during a triangular transaction from other Members States;

P - for the intra-Community supplies of services;

S - for intra-Community procurements of services.

The column "Tax Base" - the value of the transaction/transactions performed during the reporting period with the respective customer/supplier (tax base for VAT calculation set according to the provisions of Articles 137 - 138¹ and 139¹ of the Fiscal Code)

2. There shall be filled in the total amount of the transactions written on the respective page as footnote, and on the last page of the declaration there is written also the general total of the operations.

3. All the amounts are written in lei.

NOTE:

1. For intra-Community procurements of goods taxable in Romania, in case the supplier does not communicate a valid VAT code, but the goods are transported from the territory of a Member State of the European Union, the procurement is declared in the summary statement, as it follows:

The column "Country" – is the code of the member country out of which the intra-Community delivery was performed.

The column "Intra-Community Operator Code" - shall be left blank.

The column "Denomination/Name, forename of the intra-Community operator" - it shall be written the denomination/name, forename of the supplier who issued the invoice.

The column "Operation Type" - shall be filled in with "A".

The column "Tax Base" - the value of the transaction/transactions performed during the reporting period with the respective supplier (tax base for VAT calculation set according to the provisions of the title VI of the Fiscal Code).

2. For the intra-Community deliveries of goods performed to customers who are not residing within the Community and who have appointed a tax representative in the European Union or to the customers residing within the Community, registered by tax representative in the member State in which they perform the intra-Community procurement of goods, the column "The Intra-Community Operator Denomination" shall be filled in with the customer's denomination (not that of the tax representative), and the column "Intra-

Community Operator Code" shall be filled in with the VAT registration code assigned to the foreign person by tax representative.

3. For the intra-Community procurements of goods performed by a supplier who is not residing within the Community and who has appointed a tax representative in the Member State where it starts the transportation of goods that are provided by a supplier residing within the Community, registered by tax representative in the member State in which he performs the intra-Community delivery of goods, the column "The Intra-Community Operator Denomination" shall be filled in with the customer's denomination (not that of the tax representative), and the column "Intra-Community Operator Code" shall be filled in with the VAT registration code assigned to the foreign person by tax representative.

It is proceeded in the same way in case the supplier not residing within the Community has not appointed a tax representative in the Member State where the transport starts, but by the application by certain Member States of the simplification measures to declare the imports, respectively, a global representation by a company which may be, for instance, a conveyance/transport company, the extra-Community operator is considered as tax representative by the respective company.

Example: a company "A" in an extra-Community state (X) sells goods to a company "B" in Romania. The goods are imported in a Member State (Y) of the European Union by the conveyance company "C" and then the same company "C" declares on behalf of the supplier "A" in the extra-Community state (X) (but under its own VAT code) the intra-Community delivery of goods in the Member State (Y) in Romania.

In such situations, the conveyance company "C" shall be considered as tax representative. In the summary statement regarding the intra-Community procurements, the column "Intra-Community Operator Code" shall be filled in with the supplier's denomination, respectively the company "A" in the extra-Community state (X), and the column "Intra-Community Operator Code" the code in the Member State (Y) of the conveyance company "C" which has declared the intra-community delivery.