

Using Extrajudicial Accounting Surveys in Decision Making. A Case Study

Steliana Busuioceanu¹

Abstract: An extrajudicial accounting survey can be required by the party or parties who set the objectives the chartered accountant should meet, representing an efficient highly specialized assistance tool for any business which wants to be protected from risks. The extrajudicial accounting survey has a much larger and more complex span than the judicial one, aiming at different issues: economic, patrimonial, managerial, financial, fiscal, information ones, surpassing most of the times the strict frame of financial and accounting information and services. The aim of the paper is to emphasize the deeply applicative character of the extrajudicial accounting survey in clarifying varying aspects that occur in a company's activity and that affect the decision making. The article focuses on the presentation of a sample extrajudicial accounting survey report with remarks, which, both in form and content, can become a source of inspiration both for theoretical debates and in the practical activity. In the international practice, the extrajudicial accounting surveys are used both for making important economic decisions, and for the fair information of all those who use accounting information, for certifying certain calculations or information, for rationalizing information flows etc.

Keywords: objectives; documents and certificates; financial statements; CECCAR

JEL Classification: M41; M49

1. Introduction

The chartered accountant is generally someone who is highly prepared and has special expertise in a particular field, being appointed by a state body or by stakeholders, based on his/ her profession, knowledge and experience, to offer endorsement in case of misunderstandings that would represent the subject of a case or action between two or more parties. The accounting survey is an activity conducted by a certified person for reconstituting the reality of an economic, financial or fiscal operation, based on research of accounting documents, data and information. The professional norms issued by CECCAR (Norm 35/2010) classify accounting surveys into:

¹Senior Lecturer, PhD, Faculty of Economic Sciences and Business Administration, Transilvania University of Brasov, Romania, Address: 1 Colina Universitatii, 500068, Brasov, Romania, Tel.: +40268419304, Corresponding author: steliana.busuioceanu@yahoo.com.

- judicial accounting surveys, which are regulated by The Code of Civil Procedure, the Code of Penal Procedure and special laws;
- extrajudicial accounting surveys, which are performed based on a contract concluded with the beneficiary who required the operation.

The extrajudicial accounting survey can be required by: managers, partners, banks and assurance bodies, individual persons, parties in dispute. Thus, the extrajudicial accounting surveys are meant for:

- grounding managers' decision making by presenting different aspects of the management, evolution, problems or weaknesses in the company activity;
- preventing commercial or business relationships with partners that face difficult situations, which could trigger the cessation of payment or the bankruptcy;
- avoiding juridical procedures when, given a conflict of interest, two economic agents want to settle their accounts without appealing to justice, and resort to the direct reconciliation or to the arbitration of someone impartial, i.e. the chartered accountant;
- as a means to ground and ensure the quality, truthfulness, exactness and lawfulness of the information which underlie the arbitration-judiciary action required by the management of the economic agent initiating the judicial action;
- contributing to the prevention of damages in the patrimony, the preservation of its integrity and the compliance with the law;
- underlying dispute actions for administrative control acts, especially the fiscal one, as they can be required by both tax payers and fiscal authorities.

2. Conducting the Extrajudicial Accounting Survey

The accounting survey, whether it enters the scope of judicial procedures or not, has a strong practical character, representing the activity a professional performs so as to clarify accounting issues which were requested during each mission.

The appointment of chartered accountants for conducting the extrajudicial accounting survey is done based on a contract concluded between the parties. The contract has to comprise the following minimal clauses:

- the objectives (questions) for which professional answers need to be formulated;
- the date and place for filing the extrajudicial accounting survey report;

- the fee for the chartered accountant or for the survey office, calculated based on the professional fees.

The professional standard no. 35 “Accounting surveys” issued by The Body of Certified and Chartered Accountants in Romania, CECCAR, comprises the provisions for work and professional conduct practices, but also the structure of the Extrajudicial accounting survey report, which is the following:

Chapter I: Introduction

Chapter II: Performance of the accounting survey

Chapter III: Conclusions

Each of these chapters comprises distinct paragraphs with reference to the identification of the involved parties, the circumstances in which the survey was contracted, but also the operations conducted by the chartered accountant to reach the objectives envisaged. The conclusions drawn have to be presented in a structured, concise and clear form.

3. Case Study: Extrajudicial Accounting Survey Report No. 9/16.04.2013

3.1. Chapter 1: Introduction

SC Contexpert Romania SRL, represented by chartered accountant Ec. Marinescu Ovidiu, Ph.D., as contracting party, was designated by SC Carpatia Construct SRL, registered at ORC under no. J08/256/2004, fiscal code RO 21546878, represented by Michael Braun, as General Manager, to conduct an extrajudicial accounting survey with the objectives to be mentioned, within SC Carpatia Construct SRL, for the fiscal year 2012. For the edification as regards the accuracy and truthfulness of the accounts in the financial statements of the company and other issues related to the lawfulness of the accounting entries in the fiscal year 2012, an accounting survey was required having the following objectives:

- to establish which is the financial and accounting situation of the company SC CARPATIA CONSTRUCT SRL as at 31.12.2012;
- to find the economic effects produced by concluding commercial contracts with third parties or by other economic operations;
- to establish how receipts and payments evolved in the fiscal year 2012;
- to establish if the profit (loss) obtained by the company in the fiscal year 2012 was correctly set and registered in accounting.

The documents which underlay the drawing up of the accounting survey required were the following:

- the portfolio with the primary documents of the company, for the period 01.01.2012 – 31.12.2012;
- the fiscal audit report for checking VAT no. 2583/31.01.2013;
- Law no. 571/2003 regarding the Fiscal Code and the Methodological application rules approved with subsequent changes, OMFP 3055/2009 with subsequent changes;
- sales records – acquisitions, ledger, trial balances, fixed assets balance, financial statements corresponding to the period analysed;
- other legal documents and certificates received from the company.

The accounting survey was conducted in the period 19.03.2013 – 14.04.2013, at the accounting and survey office of the contracting party. The deadline for finishing the accounting survey report was set for 30 days after the documents have been handed over. We emphasize that the documents were handed over in several stages, the first one taking place on 19.03.2013 and the last one on 03.04.2013. In order to collect the necessary data and study the aforementioned documents, the contracting party visited the company's headquarters in order to get in touch with the company activity and documents; afterwards, these documents were brought to the contracting party's office, where the entire accounting survey was performed.

3.2. Chapter 2: Conducting the Accounting Survey

Data on the party which requests the accounting survey:

Name: SC Carpatia Construct SRL

Form of business organization: Limited Liability Company

Core activity: "Producing metal-wire items, cod CAEN 2873"

Registration no. ORC: J08/256/2004

C.U.I.: RO 21546878/13.09.2004

Statutory office: Braşov, str. Zizinului nr.221.

The single associate of the company is SWG SAS, French legal person.

The social capital is 200 lei.

The company is administered by Perronin Pablo.

Objective 1: *To establish which the financial and accounting situation of the company SC Carpatia Construct SRL is as at 31.12.2012*

In order to accomplish this objective, we analysed the centralized statements or the annual accounts of the company, i.e. the balance sheet. This one provides information on the return rates, the capital structure, the company liquidity, solvency and flexibility.

The profit and loss account, in line with the national accounting regulations applied for large, small and medium companies has a list form and presents operating expenses according to their economic nature. Given that, by its nature, the annually calculated profit is measured retrospectively, it is characterised, to a certain extent, by imprecision, risk and even arbitration. The profit and loss account is the financial statement which gives an overview of the ordinary and additional causes of the inventory, during the fiscal year. This is correctly devised and reveals a total loss incurred by the company of 3.486.218 lei. In the structure, the result materialized in loss is the following:

- Operating loss = 552.248 lei;
- Financial loss = 2.933.970 lei.

As regards the operating activity, as the company ended the fiscal year 2012 at a loss, a series of indicators, such as the gross sales margin, the financial return rate, the return on costs and sales cannot be established. This emphasizes the fact that the company is not able to control the production cost or to obtain the optimum sales price. The calculation method used is per product. Since only the post-calculation is performed, we can have a detailed view on the expenditure structure as absolute measure only subsequently, i.e. after the production has been finished and the products checked or even sold, which brings about sales under the production cost. As a rule, the company produces two great categories of products: welded nets and metal works.

Working under the auspices of SWG, it purchases imported base raw material, i.e. wire, which involves quite high costs as compared to the same raw material bought on the Romanian market, but which would be of a lower quality. If, considering the experience in 2012, a pre-calculation were done, the sales price could be more accurately estimated based on costs, and the under-cost sale could be prevented.

Our opinion is that a more thorough analysis should be performed as regards the expenditure corresponding to the product, against the expenditure of the period, which includes administrative and distribution costs, having quite a significant weight in the overall operating costs. Furthermore, we found a high level of the expenditure connected to staff training, as well as to entertaining. It should be mentioned that these ones are limited to a percentage of 2%, in compliance with the laws in effect, and, in the case under consideration, operating at a loss, they are fiscally non-deductible.

As regards the financial activity, it generates quite a complex structure of expenditure with interests and differences in the exchange rates, which come from the relationships with suppliers and customers, the receipts and payments in a foreign currency, bank loans, as well as from leasing. But all these are fiscally deductible. A special place is held by the crediting within the group, which brings about most of the company losses both by the contractual interest set (6%), and by the differences in the exchange rates following the re-evaluation:

- Group credit interests = 189.452 lei;
- Differences in the currency exchange rate for group credits = 1.873.606 lei.

It is worth mentioning that these expenses are fiscally deductible and, when paying the interests, the company has to pay the tax for the income obtained by non-residents, in compliance with the law in force. All the other components of the balance sheet, the annotations, respectively, were correctly and completely drawn up.

Objective no. 2: *To establish the economic effects produced by the conclusion of commercial contracts with third parties or by other economic operations.* In order to reach this objective, the documents and legislative acts mentioned in the previous chapter were studied. SC Carpatia Construct SRL is a limited liability company, being part of the group of European firms SWG and having SWG SAS from France as sole trader. As shown in the annotations to the balance sheet, the greatest weight in the total debts is held by the debts towards the group companies. Given that the company has a social capital of 200 lei, it uses the following funding sources in order to operate:

- a) Three crediting contracts from the group SWG, amounting to: 3.540.000 euros. All these contracts have a 6% interest, for which the invoice requiring the interest has already been issued;
- b) Bank loans, a BCR credit of 1.784.527 euros, respectively, based on contract no. 60162/18.10.2010. This credit is meant for investments, more specifically for reparation works in the production warehouses and for cranes, works which are necessary for the operation of the production line;
- c) Partners' contribution, SWG respectively, based on credit sale agreement, by which advance money was sent in the current account for funding-development free of interest, amounting to 2.600.000 euros.

These funding sources trigger very significant losses for the company, by a two-fold effect:

- the first effect is triggered by the differences in the unfavourable currency exchange rates, given that they are extremely fluctuating and uncertain;

- a second effect is brought by the interests which accompany these foreign funding sources.

In addition, in the total debts payable to suppliers, amounting to 8.031.852 lei as registered on 31.12.2012, 86% is held by the debts towards the companies within the group, i.e. 6.891.765 lei.

As per 2000, the Romanian fiscal legislation includes stipulations as regards transfer pricing mechanisms between the affiliated parties. Fiscal authorities have the right to check the transactions between the affiliated parties and the mechanisms for price setting, being entitled to require the taxation for a value they consider right. In general, the result of such a checkout is hard to be foreseen.

Objective no. 3: *To establish how the receipts and payments evolved in the fiscal year 2012*

In order to accomplish this objective, the debts of the company towards its suppliers were analyzed, as well as the receivables in the relationship with customers. The main suppliers are:

- **internal suppliers:**

SC Rastef SRL Braşov: RO 3051726, str. Barbu Necula nr. 678 – Prejmer

SC Voltshop SRL Brasov: RO 7283630, str. Scarii nr.8 – Braşov

SC Industrial Prest SRL: RO 12002501, str. Vidin nr.2-10 – Aiud

- **external suppliers:**

SWG Metal Industries France: FR 45612354684, 3 Rute de Bettwiller – Drulingen

SWG Construction Sas France: FR 10136156475, 3 Rute de Bettwiller – Drulingen

According to the trial balance concluded on the 31st of December 2012, the company has a credit balance of 4.768.195 lei in the account 401 “Suppliers”, and a credit balance of 1.617.422, 32 in the account 404 “Suppliers of non current assets”; the situation of suppliers is attached as at 31.12.2012.

The main customers are:

- **internal customers:**

SC Tran Metal SRL Brasov: RO 12456677, str. N.Matei nr.32 - Braşov

SC Teramet SRL Prahova: RO 7512564, str. Patriei, nr. 16-18 - Prahova

SC Remat SA Braşov: RO 4511245, str. Cristian Vindici, nr.24 - Braşov

- **external customers:**

SWG Metal Industries France: FR 45612354684, 3 Rute de Bettwiller - Drulingen

SWG Construction Sas France: FR 10136156475, 3 Rute de Bettwiller – Drulingen
 Trefileries Haulte Foret Luxemburg: LU 953246273, 51 Rute de Wasserbilling -
 Mertert

According to the trial balance concluded on the 31st of December 2012, the company has a debit balance of 4.282.022,67 in the account 411 “Customers”; the situation of customers is attached as at 31.12.2012

In order to give a more comprehensive view, the corresponding table and graph were devised for the evolution of sales as compared with receipts by month for the year 2012, which can be found in the report appendices (Fig.1).

Objective no. 4: *To establish if the profit (loss) obtained by the company in the fiscal year 2012 was correctly set and registered in the accounts.*

The costs and revenues of the company were correctly registered and in due time. The principle of the independence of the fiscal year was complied with, and, as a consequence, a scheduling was drawn up for accrued expenses and deferred income, based on precisely devised terms of payment. The company pays its taxes in due time and does not have overdue payments. The company has rightly devised statement 101 regarding the way income tax is calculated and has filed it within the statutory period. The appendices for the survey report include an evolution of the expenses and revenues by month within the fiscal year 2012, both in table and graphic form. (Fig.2)

3.3. Chapter 3: Conclusions

The accounting policies and methods used have been thoroughly checked, just like the way the accounting and fiscal legislation in effect has been complied with, based on primary documents and master tables checked and analysed randomly. For the objectives set we formulate the following answer:

Objective no. 1: *To establish which is the financial and accounting situation of the company SC CARPATIA CONSTRUCT SRL as at 31.12.2012*

The profit and loss account is correctly devised and reveals a total loss of 3.486.218 lei incurred by the company. In the structure, the result materialized in loss is the following:

- Operating loss = 552.248 lei;
- Financial loss = 2.933.970 lei.

Objective no. 2: *To establish the economic effects produced by concluding commercial contracts with third parties, or other economic operations.*

Given that the company has a social capital of 200 lei, it also uses other funding sources to operate, respectively crediting from the group, bank credits and contributions from partners. These funding sources for the company trigger significant losses, both due to the interests and to the differences in the currency exchange rates they generate.

Objective no. 3: *To establish how the receipts and payments evolved in the fiscal year 2012*

In order to offer a more relevant overview, the corresponding table and graph were devised, with reference to the evolution of sales as compared to receipts by month for the year 2012, which can be found in the appendices of the report (Fig.1).

Objective no. 4: *To establish if the profit (loss) obtained by the company in the fiscal year 2012 was correctly established and registered in accounting.*

The company expenses and revenues were correctly registered and in due time. The company correctly drew up statement 101 regarding the way profit tax is calculated and filed it within the statutory period.

3.4. Chapter 4: Personal Remarks of the Chartered Accountant

We are of the opinion that, for contracts concluded in French, it would be useful to attach a copy in Romanian, with certified translation, necessary and useful when controls are performed by the authorities in charge. From our perspective, the goods received notes, corresponding to the materials which are recorded into inventory, should comprise the name of the administrator and of the person/persons who sign for the reception commission.

In addition, for the entry and reception of fixed assets, we consider that, in compliance with the legislation in force, the form which should be used is not the same as that for materials (NIR), but a standard form stipulated in the catalogue of standard forms for the reception of fixed assets.

The calculations of production costs are correctly devised and they are based on the reports provided by production. We do not know to what extent the norms are used or are necessary for the consumption of raw materials specific to the activity.

It was found that, for certain periods of time, generally a few months, the balance of certain accounts remains the same, for instance: account 351 "Raw materials and consumables at third parties" has the same balance as at 31.12.2011 and 31.05.2012, i.e. it registers a value of 8.045 lei.

Furthermore, the supplier SWG SAS was found to have both a credit balance at position 404 "Suppliers of non current assets", but also a debit balance at position

4091 “Advance payments to suppliers for the purchase of inventories”, which could be compensated.

Account 408 “Suppliers – invoices to be received” presents credit balances for longer periods of time, for the entire year 2012, respectively.

It results that, for the aforementioned accounts, but also for those representing 411 “Customers” and 419 “Advance payments from customers”, it would be advisable to perform a more thorough analysis, at least every trimester, with a view to regulating unchanged balances, making the necessary compensations or clearing away anomalies.

Rental invoices only include the remark “equivalent value for rental services”, without clearly specifying what kind of rentals they refer to (premises, machinery etc.).

We consider we fostered most of the significant elements, detailing them in the punctual answers given to the objectives established; it is worth mentioning that no major deficiencies were found in the entries and book-keeping for the operations reflected in the primary documents.

BRAȘOV

Chartered accountant,

16.04.2013

Ec. MARINESCU OVIDIU, Ph.D.

4. Conclusions

The Accounting Survey Report which encompasses in its structure only the first three chapters is an ordinary accounting survey, which cannot include alternative conclusions for the objectives established. If the chartered accountant considers it necessary to express his/ her opinion over the objectives surveyed or regarding other issues that may be of interest for the beneficiary of the survey, he/ she can do this in a separate chapter, chapter IV, entitled, “Personal remarks of the chartered accountant”. The Accounting Survey Report, which comprises “The personal remarks of the chartered accountant”, is considered as “Accounting Survey Report with remarks”.

The Appendices for the Accounting Survey Report are an integral part of the report.

Appendices

Table 1. Evolution of Sales as Compared to Corresponding Receipts for the Year 2012

| MONTH | SALES LEI | RECEIPTS LEI | PERCENTAGE |
|-----------|-----------|--------------|------------|
| JANUARY | 77.390 | 99.317 | 128 % |
| FEBRUAY | 382.053 | 403.311 | 106 % |
| MARCH | 282.064 | 48.709 | 17 % |
| APRIL | 318.023 | 152.899 | 48 % |
| MAY | 620.116 | 462.931 | 75 % |
| JUN | 1.450.552 | 472.452 | 33 % |
| JULY | 1.598.767 | 1.141.852 | 71 % |
| AUGUST | 2.025.404 | 1.143.305 | 56 % |
| SEPTEMBER | 1.143.498 | 386.299 | 34 % |
| OCTOBER | 1.397.244 | 1.425.993 | 102 % |
| NOVEMBER | 1.475.057 | 1.022.857 | 69 % |
| DECEMBER | 1.465.153 | 1.076.773 | 73 % |
| TOTAL | 12235321 | 783669 | |

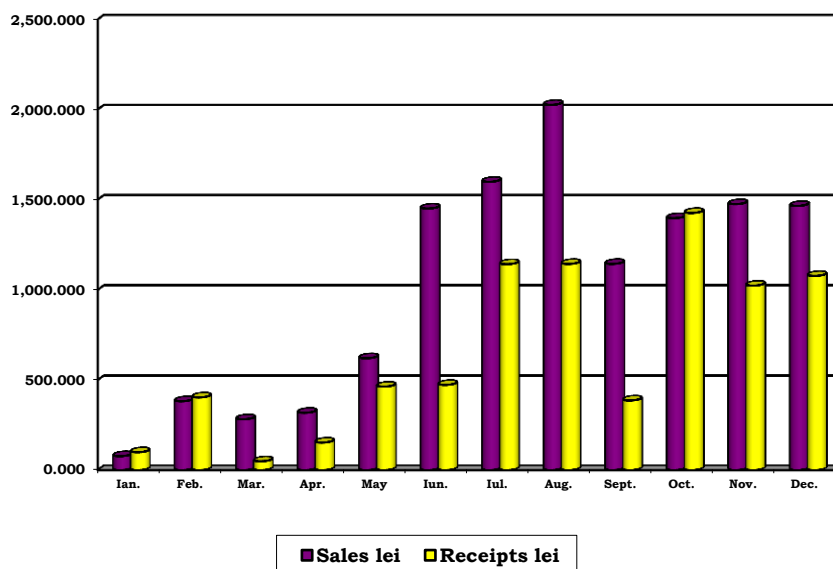


Figure 1. Evolution of Sales as Compared to Corresponding Receipts for the Year 2012

Table 2. Evolution of Expenses and Revenues for the Year 2012

| MONTH | EXPENSES | REVENUES | PROFIT |
|-----------------|------------|------------|------------|
| JANUARY | 167.209 | 49.925 | -117.284 |
| FEBRUARY | 218.762 | 99.693 | -119.069 |
| MARCH | 796.781 | 663.685 | -133.096 |
| APRIL | 503.887 | 403.336 | -100.551 |
| MAY | 1.161.108 | 945.123 | -215.985 |
| IUNE | 1.596.557 | 2.663.661 | +1.067.104 |
| Total Jan.-June | 4.444.304 | 4.825.423 | +381.119 |
| JULY | 2.098.639 | 2.005.992 | -92.647 |
| AUGUST | 2.103.484 | 1.909.626 | -193.858 |
| SEPTEMBER | 4.465.600 | 4.285.311 | -180.289 |
| OCTOBER | 1.805.061 | 1.602.928 | -202.133 |
| NOVEMBER | 2.077.896 | 2.011.632 | -66.264 |
| DECEMBER | 3.993.445 | 861.299 | -3.132.146 |
| Total July-Dec. | 16.544.125 | 12.676.780 | -3.867.377 |
| TOTAL YEAR 2012 | 20.988.429 | 17.502.211 | -3.486.218 |

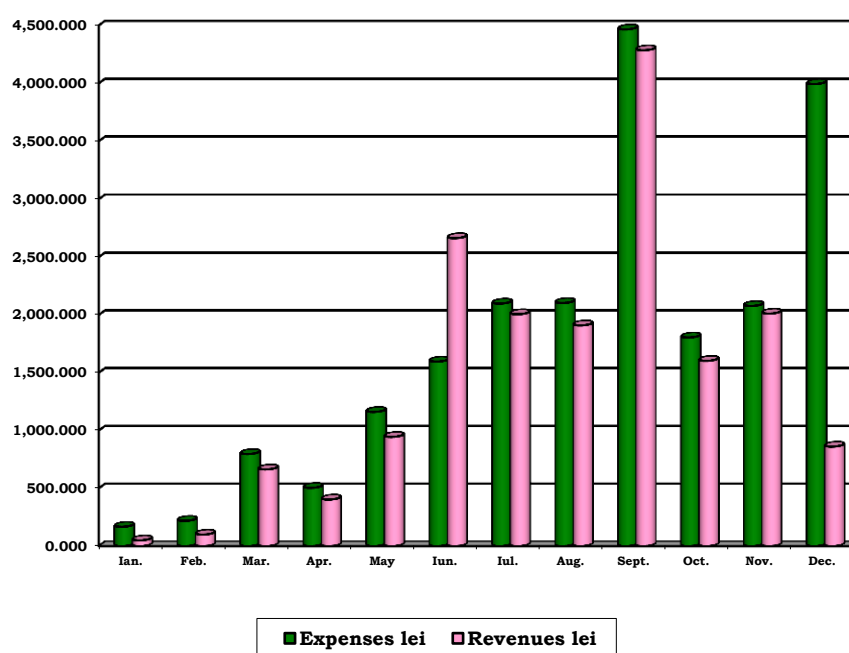


Figure 2. Evolution of Expenses and Revenues for the Year 2012

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