In this issue:

Recovery of the historical negative VAT balance

HCCJ Decision no. 6/2026 creates an important opportunity for taxpayers who have accumulated negative VAT balances (amounts to be recovered from the state) over time. The High Court established that the right to carry forward the negative balance of VAT in the returns of subsequent fiscal periods is not subject to the statute of limitations.

This clarification may allow companies to reconsider the treatment applied to historical negative VAT balances and to identify amounts that could be recovered or recovered, including those that were previously eliminated as time-barred under the regulations according to which the tax limitation period is of 5 years.

Recovery of historical negative VAT balance

HCCJ Decision no. 6/2026 which establishes that the right to carry forward the negative VAT balance in the returns of subsequent fiscal periods is not subject to the statute of limitations.

I. What has changed?

- The tax authorities should no longer invoke the limitation period to limit the right to carry forward the negative balance of VAT
- Taxpayers can have a more solid basis for repositioning in tax inspections, appeals or litigation
- Historical negative VAT balances can become a relevant source of cash-flow optimization

II. For whom is the HCCJ Decision relevant?

- Companies that have carried negative VAT balances for long periods
- Taxpayers who have removed from the records amounts (VAT to be recovered) considered time-barred
- Companies that have ongoing VAT refund claims, tax inspections, appeals or litigation
- Groups that want to evaluate opportunities to optimize their cash flow and tax position

III. What should the taxpayer do?

- Review the history of negative VAT balances and how they have been carried forward or removed from the records
- To identify the amounts that could be recovered or capitalized based on the HCCJ Decision
- Assess the appropriate option: continue carry-over, request reimbursement or a blended approach
- To prepare the technical argumentation and the supporting documentation before any procedural step
- Analyse the impact on tax positions under inspection, appeal or litigation

IV. Deloitte's approach

The Deloitte team can assist you with a quick analysis of your historical VAT position, identifying amounts with potential for recovery, evaluating procedural options and preparing the necessary arguments in relation to the tax authorities. Through the integrated collaboration between tax advisors and tax dispute lawyers, we can support a coherent, pragmatic approach adapted to the profile of each taxpayer.

We recommend that you assess in advance whether the ICCJ Decision may have a favourable impact on your VAT position and on the cash flow of the company.

For more details, please feel free to contact us.

Bogdan Marculet
Counsel
Reff & Asociații | Deloitte Legal
bmarculet@reff-associates.ro

Elena Rosculet
Senior Manager
Deloitte Tax
erosculet@deloittece.com

Reff | Asociații

Reff & Asociaţii SPRL is a member law firm of the Bucharest Bar Association, independent in accordance with the regulations applicable to the legal profession, and represents the Deloitte Legal network of law firms in Romania. Deloitte Legal means the legal practices of Deloitte Touche Tohmatsu Limited members and their affiliates who provide legal support services. For a description of the legal assistance services offered by Deloitte Legal member entities, please visit: http://www.deloitte.com/deloittelegal.

This Alert is provided for guidance purposes only and should not be considered as an advisory service. It is a good idea to seek expert tax/legal advice before taking any action based on this document.

This publication contains general information only and Deloitte Touche Tohmatsu Limited and its member or affiliated firms (collectively referred to as the Deloitte Network) do not provide professional advice or services through this publication. Before making any decision or acting in a way that could affect your finances or business, you should speak with a professional consultant. No entity of the Deloitte Network shall be liable for losses of any nature incurred by persons reliing on this publication.

© 2026. For more details, contact Reff & Asociaţii SPRL