

Amendments brought to Law 95/2006 regarding the health reform

Government Emergency Ordinance 93/2008 ("EO 93/2008"), amending Law 95/2006, was published in the Official Journal no. 484 of 30 June 2008.

The amendments become applicable starting 3 July 2008.

Under amendments introduced by EO 93/2008, the contribution to the health fund is also due, starting 3 July 2008, for:

- pension income **exceeding the limit provided for income tax purposes** (the part of the gross income exceeding RON 1,000, according to the provisions of the Fiscal Code, approved by Law 571/2003 subsequently amended);

- non-taxable income** realised by the taxpayers. Examples of such non-taxable income, for which the health fund contribution will be due starting 3 July 2008, are:

- burial aid;
- revenues granted as a gift for the minor children of the employees, gifts granted by the employer to its employees;
- meal tickets and other food rights granted by employers to employees in accordance with the provisions of the law;
- costs incurred by the employer for training and improvement of employee-related work undertaken by it for the employer;
- salary income obtained by non-resident individuals detached in Romania for a period of less than 183 days, etc.

Additionally, the corroborated provisions of Law 95/2006, of the Emergency Ordinance no. 93/2008, of the Norms for the application of the provisions of Law 95/2006 and of the draft Order amending the Norms for the application of the provisions of Law 95/2006 (not published yet in the Official Journal), indicates that for cases in which a person obtains both non-taxable revenues, as well as taxable revenues, the contribution due to the health fund should be computed considering all this revenues (taxable and non-taxable).

Until the amendment of Law 95/2006 through the Emergency Ordinance no. 93/2008, individuals obtaining only non-taxable salary income were liable to pay contribution to health fund at the level of the minimum gross salary per country.

Moreover, the National House for Social Health Insurance issued an official press release on its web site for the application of the provisions of the Emergency Ordinance no. 93/2008 stating that the amendment brought by the EO no. 93/2008 seeks payment of health fund contribution for salary income obtained by disabled persons and by persons developing software.

We hope that, at the time of its publication, the Order amending the Norms for the application of Law 95/2006 would clarify the aspects regarding the non-taxable income to be considered when determining the health fund contribution as well hope to clarify aspects concerning the individuals liable to pay health fund contribution for non-taxable income obtained.

Also, starting 3rd July 2008, the contribution to the health fund due by **persons being in medical leave granted for work accident or occupational disease** suffered, **should be beard by the employer or by the insurance fund for work accidents and occupational diseases**, established under the provisions of the law.

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The current Emergency Ordinance also introduces a new infringement applicable for **legal entities and/or individuals not submitting the nominal statement regarding their liabilities towards the health fund as well as the proof for the payment of such contributions**. As such, for non-complying with such formal requirements **finances ranging between RON 50 and RON 100 will be paid by the employers**.

Emergency Ordinance 85/2008 for stimulating investments was published in the Official Journal no. 474 of 27 June 2008

This Emergency Ordinance ("EO") is governing the legal framework regarding the measures to be considered by the state in the area of state aid granted for a lasting development of Romania, by stimulating certain categories of investment.

State aids are granted for investments performed in the following domains: industrial processing activity, manufacturing field, heating and electricity, for protection and improvement of the environment quality; services labour power, etc.

Facilities granted by the state based on the provisions of the EO 85/2008 are:

- amounts granted in order to purchase tangible and intangible assets, for which the receiver has no reimbursement obligation;
- financial contributions granted by the state budget for jobs newly created;
- interest allowances granted for loans contracted by the receivers and other categories of facilities provided by legislation.

In order to receive the before mentioned facilities, the investments and the investors must fulfil specific conditions provided by the present Emergency Ordinance.

At the time of its entry into force **Emergency Ordinance 85/2008** is repealing Law 332/2001 regarding the promotion of direct investment having significant impact on the national economy, published in the Official Journal no. 356 of 3 July 2001.

Official Journal no. 434 of 10 June 2008 contains Order no. 725 of 30 May 2008 for the approval of the Procedure for the implementation of the Program for supporting small and medium enterprises by granting funds limited to the amounts paid for the reinvested gross profit

The program aims to increase the competitiveness and the capitalisation of small and medium enterprises and thus a greater consolidation of capital and of competition, to which these companies are subject to on the single market.

The **budget of the program for 2008** is RON 7,879.20 thousands and covers 350 of economic operators.

Applicants are **eligible** and qualify as beneficiaries of the financial allocations, if the conditions set out in the procedure approved by Order 725/2008 are cumulatively met.

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The beneficiaries of these financial allocations have no reimbursement liability but, **are liable to keep the investment performed within the program for a 3-year period.**

Through this program 16% of the amounts spent in 2007, from profit obtained, but not more than RON 100,000 are allocated for purchasing tangible and intangible assets (such as technological equipment, computers and peripheral equipment, patent, author rights, licences, trade marks, etc) invoiced, paid in full and set to work between 1 January 2007 and 31 December 2007.

Economic operators aiming to receive the financial allowances granted by the state budget should prepare a register containing the documentation provided for in the procedure approved by Order 725/2008.

Order 7/2008 amends and completes the rules for computing and recoding the minimum reserves for general insurance business, implemented by Order of the President of the Commission of Insurance Supervision nr. 3109/2003

Based on the amendments introduced, the methodology for computing damage reserve also includes the one related to insurance contracts mandatory for damages produced by cars accidents. Please note that these kind of damage reserves were not covered by the computation methodology.

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Government Decision 664/2008 regarding the structure of the excise duty expressed in EURO for 1,000 cigarettes was published in the Official Gazette no. 472 of 26 June 2008

According to the provisions newly introduced, entering into force from 1 July 2008, the total excise duty is 27.31 EURO for 1.000 cigarettes plus 25% applied to the maximum retail price declared.

Order of the Minister of Economy and Finance no. 1984/2008 regarding the minimum excise duty on cigarettes was published in the Official Gazette no. 478 of 27 June 2008

The level of the minimum excise duty for cigarettes, applicable during 1 July 2008 and 31 December 2008 inclusive, is of EURO 45.50 for 1.000 cigarettes, respectively RON 152.72 for 1.000 cigarettes.

The Official Journal no. 448 of 16 June 2008 contains **Order 898/2008 of the president of the National Agency for Fiscal Administration approving the list of the inactive tax payers and the list of the reactivated tax payers**

Circular no. 16/2008 issued by the National Bank of Romania (“NBR”) regarding the reference interest rate for June 2008 was published in the Official Journal no. 427 of 6 June 2008

As such, for June 2008 the **reference interest rate provided by NBR is of 9.75% per year.**

Order 880/2008 of the Minister of Foreign Affairs concerning the entry into force of specific international treaties concluded by Romania was published in the Official Journal no. 416 of 3 June 2008

Under the provisions of the order, the following international agreements entered into force on **1 January 2007**:

- Agreement concluded between Romania and Jersey providing for the taxation of savings income (ratified by Law 134/2008 and published in the Official Journal no. 385 of 7 June 2007);
- Agreement concluded between Romania and Guernsey providing for the taxation of savings income (ratified by Law 134/2008 and published in the Official Journal no. 385 of 7 June 2007).

Starting **15 August 2007**, the date of entry into force, the following international conventions are applicable:

- Convention between Romania and The Kingdom of the Netherlands for the Netherlands Antilles, concerning the automatic exchange of information related to savings income received as interest payments (ratified by Law 134/2007 and published in the Official Journal no. 385 of 7 June 2007);
- Convention concluded between Romania and The Kingdom of the Netherlands for Aruba concerning the automatic exchange of information related to savings income received as interest payments (ratified by Law 134/2007 and published in the Official Journal no. 385 of 7 June 2007), while
- The double tax treaty concluded between Romania and the Republic of San Marino, as well as the Protocol concluded in this regard (ratified by Law 387/2007 and published in the Official Journal no. 13 of 8 January 2008) entered into force on **1 February 2008**.

Order 5121/2008 of the vicepresident of the National Agency for Fiscal Administration amends and completes Order 6632/2007 issued by the same authority regarding the approval of the Technical norms for the use of the System for the control of the export

The present order was published in the Official Journal no. 430 of 9 June 2008 and amends the provisions of Order 6632/2007, as well as the appendix at this order.

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Official Journal no. 413 of 2 June 2008 contains Law 121/2008 for the approval of Emergency Ordinance 145/2007 for the amendment of paragraph (4) of article 8 of the Government Ordinance 119/1999 regarding the preventive financial inspection

Amendments introduced aims the preventive financial inspection to be gradually integrated in the area of managerial responsibility as management control will ensure the elimination of management risk of public funds. The achievement of this level will be evaluated through audit missions disposed by the Minister of Economy and Finance, under the law.

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