



### Amendments to existing legislation

Official Journal 815 of 4 December 2008 published the following normative acts:

1. Emergency Government Ordinance 200/2008 ("EGO 200/2008") for the amendment of Law 571/2003 regarding the Fiscal Code; the EGO becomes effective as of 1 January 2009, except the provisions regarding the reduced VAT rate of 5%, that become effective as of 15 December 2008.

2. Emergency Government Ordinance 192/2008 ("EGO 192/2008") for the approval of tax relaxation measures with a view to enhance economic growth and employment, specifically referring to:

- ❖ The amendment of the Fiscal Procedural Code;
- ❖ Social security contribution rates as of 1 December 2009;
- ❖ Incentives for employers creating new jobs;
- ❖ Increase of the pension point to RON 763.7, as of 1 January 2009; and
- ❖ Amendment of Law 95/2006 regarding public healthcare reform.

#### ❖ Amendment of the Fiscal Code

The amendments of the Fiscal Code brought by EGO 200/2008 refer, *inter alia*, to:

#### **Corporate income tax**

The following tax incentives were introduced for research and development activities:

- additional 20% deduction of eligible expenses for corporate income tax computation purposes;
- application of the accelerated depreciation method to equipment and machinery dedicated to research and development activities.

Such tax incentives apply on condition that the Ministry of Education, Research and Youth elaborates a state aid scheme having as objective the research, development and innovation.

#### **Individual income tax**

Individual income obtained as a result of the effective application of a Romanian licensed invention, currently non-taxable in accordance with the provisions of art. 47 of the Fiscal Code, becomes taxable starting 1 January 2009.

Interest income related to term deposits and/or savings instruments obtained by Romanian individuals starting with 1 January 2009 is **non-taxable**.

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### ***Withholding tax on interest income obtained by non-resident individuals***

Interest income on term deposits and/or savings instruments obtained by non-resident individuals, other than European Union residents, are exempt from Romanian withholding tax starting with 1 January 2009.

### ***Value added tax***

A reduced rate of 5% is to be applied for delivery of houses - part of the social policy, under certain conditions.

Importers holding a single authorisation for simplified procedures, issued by another member state, must also hold an import statement for VAT and excise duties, in order to exercise the deduction right for VAT related to importation, both in case such VAT is paid, as well as in case such VAT is postponed for payment based on the relevant certificate obtained by the importer.

### ***Excise duties***

The EGO provides for the conditions that must be fulfilled for the movement of an excisable product under a suspensive regime after such product was released for free circulation under a simplified customs procedure.

In case of products resulting from import operations performed by an importer holding a single authorisation for simplified customs procedures issued by another member state, such importer must file the import statement for VAT and excise duties to the competent customs authority. The excise duty becomes chargeable upon submission of the VAT and excise import statement.

### ***❖ Dividend tax exemption***

EGO 200/2008 provides that dividends that are reinvested starting with 2009, with the purpose of maintaining and creating new jobs within the legal entity distributing such dividends are exempt of dividends tax payment. Similarly, an exemption is granted for payment of dividends tax on dividends invested into the share capital of another Romanian legal entity, with a view to create new jobs.

The procedure for the application of the dividends tax exemption in the above-mentioned situation is to be approved by Order of the Minister of Economy and Finance and of ANAF's President.

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❖ [Amendment of the Fiscal Procedural Code](#)

Payment with at least 10 days in advance of the tax liabilities due to budget under ANAF's administration, with the exception of withholding taxes and contributions, as well as excise duties, is rewarded with a 5% indemnity.

Taxpayers who have outstanding tax liabilities that are not suspended for forced execution are not eligible for such indemnity. The indemnity is computed by the taxpayer on a monthly basis, and it reduces the advanced payment. Such income is to be used by the taxpayer as own financing funds.

The indemnity is cancelled and it must be paid back to the relevant budget if, subsequent to its application, either the taxpayer, or the tax inspection bodies ascertain that the tax liabilities were underestimated and declared as such. In the latter case, for all such additional tax liabilities, including the amount of the indemnity, the taxpayer is liable to late payment interest. Moreover, the application of such indemnity in case of understatement of tax liabilities represents contravention and the related fine is of 4 to 5% of the additional tax liabilities ascertained by the tax inspection.

Tax statements related to withholding taxes and contributions may be rectified by the deadline for submission of the annual financial statements or by 30 June of the following year in case the taxpayer is not liable to file annual financial statements.

The annual corporate income tax return as well as the annual informative statements may be rectified by 30 June of the year following the deadline for filing such returns.

The rectification of tax statements which were filed on three different deadlines during a fiscal year or on three consecutive deadlines represents contravention and the related fine is of 4 to 5% of any additional tax liability declared.

❖ [The social security contribution rates applicable starting 1 December 2009 are amended](#)

Starting 1 December 2009, the social security contribution rates are as follows:

- For normal work conditions - 27.5%
- For distinct conditions of work - 31%
- For special conditions of work - 37%

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❖ [Incentives for employers creating new jobs](#)

Employers creating new jobs for unemployed persons benefit, under certain conditions, of a subsidy of 8 times the value of the reference social indicator in force at the employment date, being obliged to maintain the employee at least 3 years. Such subsidy is granted from the unemployment social security budget.

Employers benefitting of jobs subsidy who terminate employment of such personnel before the terms stipulated by law are not eligible for a new subsidy for a period of 2 years.

❖ [Amendment of Law 95/2006 regarding public healthcare reform](#)

The contribution to the health fund by retired personnel whose pension exceeds RON 1,000 is postponed until 1 January 2010.

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### TaxHouse

**TaxHouse** was founded in 2006 in the context of domestic and international need for independence and specialisation, given the stringent objectivity requirements placed on traditional audit firms by various regulators around the globe.

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### Informative note:

*Information presented here has exclusively informative nature. Taxhouse SRL does not recommend that the decisions to be firmly taken based of the information presented herein, since a detailed analysis is needed depending on the specific situation*

