

# TAX HOT TOPICS

24 July 2015

## Tax Procedure Code

*Law no. 207/2015 published in the Official Gazette no. 547 of 23 July 2015*

Starting 1 January 2016, GO 92/2003 regarding the Fiscal Procedure Code will be replaced by Law 207/2015 implementing new provisions with respect to tax procedure matters. The new Code brings a new structure, with distinct titles and chapters:

- ❖ Title I. General provisions
- ❖ Title II. Legal relation on tax matters
- ❖ Title III. General procedure provisions
- ❖ Title IV. Tax registration
- ❖ Title V. Tax liabilities
- ❖ Title VI. Tax audit
- ❖ Title VII. Collection of tax liabilities
- ❖ Title VIII. Solution of appeals against fiscal administrative acts
- ❖ Title IX. Mutual agreement procedure for elimination/avoidance of double taxation
- ❖ Title X. International aspects
- ❖ Title XI. Sanctions
- ❖ Title XII. Transitory and final dispositions

The new Code brings multiple amendments to the existing provisions, among which we mention:

- ❖ **„in dubio contra fiscum”** principle is introduced as a provision for interpretation of the law; according to this principle, in case of confusion with respect to the tax law, the interpretation of the law shall be done in favor of the taxpayer.
- ❖ The substance over form principle is being detailed.
- ❖ **Deadlines are introduced for the tax administration when answering to the taxpayer's requests** (2, 3 or 6 months, as the case may be) for cases where additional information/evidence is required for decision making purposes.
- ❖ Fees for issuance of anticipated tax solutions are increased from EUR 1,000 to EUR 5,000 for large taxpayers and EUR 3,000 for small and medium size taxpayers.
- ❖ A **threshold for related party transactions** which are to be documented via the transfer pricing file will be introduced by means of a special order issued by the National Agency for Tax Administration.
- ❖ **New penalties** are introduced for failure to declare/incorrectly declaration of tax liabilities (in addition to the late payment interest and penalties already enforce). The level of the



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penalty was established to 0.08% per day of delay and can be reduced by 75%, upon request, if the related tax liabilities are paid within the legal deadline provided by the tax assessment decision.

- ❖ ***Late payment interest and penalties level is reduced to 0.02% and 0.01% respectively.***
- ❖ Amendments are brought to the provisions regulating ***tax audits***.

Taking into account the complex amendments brought by the new Tax Procedure Code, we highly recommend that a detailed analysis be performed in this respect. Our team will be pleased to assist you for any inquiries you may have on the present subject.

