

TAX HOT TOPICS

September 11, 2015

Amendment and completion of Norms regarding simplified customs procedures

Order of the President of National Agency for Fiscal Administration no. 2092/2015 published in the Official Gazette no. 643 of August 25, 2015

- ❖ This Order amends and completes the NAFA's President Order no. 163/2015 for the approval of Norms regarding simplified customs procedures.
- ❖ The new provisions bring clarifications regarding the regime of goods subject to restrictive or sanctioning measures (e.g. drugs, products with special regime, weapons, etc.), thus, if a custom operation authorized for applying the simplified custom procedure falls under restrictive or sanctioning measures, it can be reclassified under the normal custom procedure and related measures of this procedure shall apply.
- ❖ Also, the Order brings amendments and completions regarding the necessary conditions to be met by the license holder in order to be granted the exception of notification. Thus, besides the obligation of holding an AEO certificate, the authorization holder must comply with the following:
 - ❖ to carry out production, assembly and/or distribution activities (these activities can be also performed by the legal representative of the license holder);
 - ❖ operations performed for which the exemption of notification applies, does not relate to goods restricted, as defined at art. 269 para. (2) of Law no. 86/2006, as further amended and completed.
- ❖ Furthermore, it is stated that monitoring compliance with the conditions for authorizing the use of simplified custom procedures will be made in accordance with the procedure for monitoring the activity of the economic operators who hold an authorized economic operator certificate.



Approval of the procedure regarding recalculation of the tax base for income derived by individuals from lease of goods, in order to grant deductibility of social health insurance contributions

Order of the President of National Agency for Fiscal Administration no. 2203/2015 published in the Official Gazette no. 647 of August 26, 2015

- ❖ The Order approves the procedure regarding recalculation of the tax base for income derived by individuals from lease of goods, in order to grant deductibility for social health insurance contributions.
- ❖ Under this procedure, the tax authorities recalculate the net income/tax base from the lease of goods, for each source of income earned. Thus, the social health insurance contributions due for the fiscal year shall be deducted by the tax authorities from the income derived by each source of lease of goods category, regardless of the method of determining the net income (i.e. in real system, based on income norms or by using expense flat rates).
- ❖ Also, the normative act specifies the types of income subject to recalculation, as well as the method used by the competent authority to determine the value of the net income/taxable base from which the annual social health insurance contribution is deducted.
- ❖ Also, in order to determine the annual taxable net income, the loss brought forward from the previous years is deducted from the net income/taxable base calculated according to the provisions of present Order.
- ❖ The value of the annual net income tax due is communicated to the taxpayer by the competent tax authority via the annual tax decision.
- ❖ The provisions of this Order shall apply to income derived by individuals starting January 1st 2014.

Amendment and completion of Methodological Norms regarding the parental leave and monthly parental allowance

Government Decision no. 685/2015 published in the Official Gazette no. 649 of August 27, 2015

- ❖ The decision amends and completes the Methodological Norms of the Government Emergency Ordinance no. 111/2010 on allowance and parental leave, approved by Government Decision no. 52/2011.
- ❖ According to this Decision, the parental allowance is determined by taking into account the revenues earned in the last 12 months before the birth of children.
- ❖ The individual who obtains simultaneously taxable income from multiple sources can obtain allowance and parental leave only if he meets the following conditions:
 - ❖ income earned in one year shall not exceed RON 3.000;
 - ❖ proves the suspension of at least one of the activities for which the individual have the right to benefit of the parental allowance.
- ❖ In case the entitled person is unable to prove the suspension of activity, he can obtain taxable income from any activity, in certain periods, providing that such income will not exceed the annual threshold of RON 3.000.
- ❖ In case the entitled persons successively request right to parental leave and to the allowance related to it, the limited annual income of RON 3.000 is applicable to each of them.
- ❖ According to the new provisions, territorial agencies must verify whether the income obtained by a person in parental leave is under the limit of RON 3.000 per year. This verification is made within three months from the end of each year during the parental leave, and also from the termination of the right to parental leave and related allowance.
- ❖ In case the entitled person obtains income higher than RON 3.000 per year, he is obliged to notify in writing the authorities of the city hall within 15 days. Otherwise, the compensation is considered wrongly cashed and it will be returned as the law provides.
- ❖ If there is a situation likely to create a new right, the calculation base of the parental allowance shall also include the income obtained during the child care leave, limited to RON 3.000 per year.
- ❖ The decision enters into force starting on August 27, 2015.

Amendment and completion of Methodological Norms on the stimulation of the establishment and development of micro-enterprises by debutant entrepreneurs in business

Government Decision no. 679/2015 published in the Official Gazette no. 654 of August 28, 2015

- ❖ This normative act supplements and clarifies certain aspects regarding the practical implementation of a program aimed for debutant entrepreneurs in business, respectively for those persons who perform, for the first time, an economic activity through a limited liability company (SRL-D), program instituted by GEO no. 6/2011.
- ❖ Thus, according to this Decision, the funds during the 2015 - 2020 period for financing the program through which non-reimbursable financial incentives are granted, will be allocated to a number of at least 550 micro-enterprises per year and will be supported from the annual approved budget of the Ministry of Energy, Small and Medium Enterprises and Business Environment.
- ❖ The registration of the projects in the program will be done exclusively online, by using a username and a password, in biannual sessions of 15 days, until the depletion of the budget allocated for this program.
- ❖ Also, according to the new regulations, the admission in the program will be done according to the scores obtained at the online evaluation of the business plans, the minimum score being 60 points out of a maximum of 100 points. At equal scores, the selection is made based on the following criteria:
 - ❖ the number of jobs to be created in this program;
 - ❖ the acquisition of the technological equipment;
 - ❖ the activity which accesses the program;
 - ❖ the entrepreneurship course;
 - ❖ the associate/administrator is unemployed or graduator from the previous year at the registration date in the Trade Register;
 - ❖ the date and hour of the registration in the program.
- ❖ Applicants whose business plans are implemented with credit component and which obtain at least the minimum score after the examinations done, will conclude the financing contract with the Territorial Office for Small and Medium Enterprises and Cooperation, after presenting the evidence of the co-financing (e.g.: credit contract issued by an authorized credit funder, other clear evidences of the co-financing capacity of the project). These applicants will present evidence of co-financing within 30 days of receipt of the

notification by email regarding the financing agreement.

- ❖ If applicants request within 30 days the approval for replacing the credit component with capital contribution component in order to implement the

business plan, the financing contract will be signed within 5 working days from the receipt of the approval.

- ❖ This Decision comes into force starting August 28, 2015.

Approval of the Ordinance regarding the tax record

Government Ordinance no. 39/2015 regarding tax record, published in the Official Gazette no. 655 of August 31, 2015

- ❖ Through the present Ordinance, the Government approves a new legal framework that regulates the tax record, substantially modifying the rules applicable under GO no. 75/2001.
- ❖ Thus, the new normative act extends the area of application of the tax record, sets out new situations in which the document must be presented and regulates other aspects which were not previously covered by the legislation.
- ❖ One of the most important changes brought by the new ordinance refers to the organization at the level of NAFA of a record based on historical data of taxpayers deregistered from the tax record. Thus, information archived by NAFA shall be kept in the record for **ten years** starting from the date of deregistration and will be used for verification of the fiscal behavior of individuals who set up a company or an association/foundation.
- ❖ In addition, the historical information held by the tax authorities will be used for performing the risk analysis, based on which NAFA selects the taxpayers subject to tax audit. Therefore, those who were in breach of the tax, accounting and custom law or financial discipline will be liable to inspection by the NAFA, even after ten years since their actions have been erased from the tax record.
- ❖ Among the most significant new elements brought by this Ordinance, we mention the following:
 - ❖ the tax record may be requested and released online;
 - ❖ the tax record may be requested to any tax authority with such attributions;
 - ❖ a series of new aspects are brought in relation to registration of data in the tax record;

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- several amendments / new regulations shall apply for deregistration of the tax record.
- The new rules shall enter into force on September 3rd, 2015, date on which the provisions of GO no. 75/2001 are abrogated.

