

TAX HOT TOPICS

14 October 2015

Accounting of the main operations of reorganization and liquidation of companies, as well as the withdrawal or exclusion of associates

Order no. 897/2015 published in the Official Gazette no. 711 of 22 September 2015

- ❖ The Order approves the Methodological Norms regarding the accounting of the main operations of merger, spin-off, dissolution and liquidation of companies, as well as the withdrawal or exclusion of companies' associates.
- ❖ The Order brings amendments to the previous provisions, of which we mention the following:
 - ❖ definition of terms used within the Norms, namely: net asset value, net contribution, accounting value of the participation titles in the companies involved in the merger or spin-off, merger premium, spin-off premium;
 - ❖ elimination of the provisions regarding the tax treatment applicable to such operations, the current provisions referring to the Fiscal Code in this respect;
 - ❖ alignment of the Norms with the provisions of the company law with respect to the effective date of the merger / spin-off;
 - ❖ completions regarding the preparation of the financial statements for the merger, spin-off or liquidation, as well as their audit and submission with the territorial units of the Ministry of Public Finance;
- ❖ companies who merge / spin-off and transfer to the newly created companies accounting losses carried forward, will mention this fact in the merger / spin-off documents;
- ❖ completions regarding the information that need to be included in the handover protocol signed in relation with the merger / spin-off;
- ❖ amendments regarding the accounting of the main operations of reorganization, liquidation and withdrawal or exclusion of associates, including the introduction of new examples, e.g. for merger operations in which the absorbing company owns 100% of the absorbed company's share capital, spin-off with the termination of the spun-off company and where some shareholders decide to withdraw;
- ❖ The Order enters into force starting with the publication in the Official Gazette and repeals Order no. 1376/2004.



Amendments regarding the New Fiscal Code

Emergency Ordinance no. 41/2015 published in the Official Gazette no. 733 of 30 September 2015

- ❖ The Emergency Ordinance brings completions to art. 495 of Law 227/2015 regarding the Fiscal Code by introducing new provisions regarding the situations in which the decisions on the levels of local taxes for the 2016 are not adopted by the local councils. Thus, they can also be approved by:
 - ❖ order of the mayor, if the local council is dissolved;
 - ❖ decision issued by the secretary of the territorial-administrative unit or by the person appointed under Law no. 215/2001, if the city council is dissolved and the mayor cannot carry out his duties due to the termination or suspension of his mandate under the law, or in case preventive measures under criminal law have been taken against him, other than the ones which determine the suspension of the mandate and which make it impossible for him to exercise his legal attributions.

Approval of the procedure regarding the reduction of income norm for agricultural activities

Order no. 2.204/2015 published in the Official Gazette no. 684 of 9 September 2015

- ❖ The Order approves the procedure for reducing the income norm for agricultural activities in case of losses as a result of adverse weather conditions which can be assimilated to natural disasters such as frost, hail, ice, flooding, heavy rain, drought, and those produced by wild animals, if the following conditions are cumulatively fulfilled:
 - ❖ net income is determined based on income norms;
 - ❖ the loss affects over 30% of the areas destined for crop production or owned animals;
 - ❖ submission of the 221 form "Statement regarding income from agricultural activities imposed based on income norms".
- ❖ The damage report and loss evaluation are prepared, at the request of individuals / associations without legal personality, by a commission appointed by order of the county / Bucharest prefect.

Agreement in the field of social security with Albania

Decree no. 727/2015 published in the Official Gazette no. 703 of 18 September 2015

- ❖ The President of Romania decrees the submission for ratification by the Parliament of the Agreement between Romania and the Republic of Albania in the field of social security, signed in Bucharest on February 27, 2015.

Norm regarding the accounting regulations compliant with the European directives applicable to the private pension system

Norm no. 14/2015 published in the Official Gazette no. 706 of 21 September 2015

- ❖ The Norm establishes:
 - ❖ the format and the content of the annual financial statements;
 - ❖ the accounting principles and the rules for recognition, evaluation, removal and presentation of elements in the annual individual financial statements;
 - ❖ the rules regarding the preparation, approval, audit, according to the law, and publication of the annual financial statements;
 - ❖ the chart of accounts as well as the content and functioning of accounts applicable to the private pension system.
- ❖ The Norms apply to the following categories of entities:
 - ❖ private pension funds and voluntary pension funds;
 - ❖ administrators of the private pension funds and / or voluntary pension funds, that are pension companies founded according to legal provisions in force;
 - ❖ private pension brokers, companies founded and licensed under legal provisions in force;
 - ❖ guarantee funds for the private pension system rights, established under Law no. 187/2011.
- ❖ The Norm partially transposes the provisions of Directive 2013/34/EU of the European Parliament and the Council of 26 June 2013, and repeals:
 - ❖ Norm no. 14/2007 regarding accounting regulations compliant with Directive IV of the European Economic Community approved by Decision no. 37/2007;
 - ❖ Norm no. 18/2008 regarding accounting regulations compliant with Directive VII of the European Economic Community approved by Decision no. 34/2008.

Completion of technical Norms regarding the customs formalities procedure for deliveries carried by express courier services

Order no. 2.213/2015 published in the Official Gazette no. 688 of 10 September 2015

- ❖ The Order completes the technical Norms regarding the customs formalities procedure applicable in case of deliveries carried by express courier services approved by Order no. 2.323/2014.
- ❖ According to the new completions, for deliveries carried by express courier services, destined to persons, other than individuals, having a value of over 150 EURO each, including per lot and per declarer, and for which the declaration is submitted using the computerized declaration system, for performing the risk analysis, the customs authorities may authorize the submission of the customs declaration before the declarer is able to present the goods or make them available for control.
- ❖ The goods must be presented or made available within 24 hours from the submission of the customs declaration.

Approval of technical Norms regarding the administration of tariff quotas in Romania

Order no. 2.291/2015 published in the Official Gazette no. 725 of 28 September 2015

- ❖ The Order approves the technical Norms regarding the administration of tariff quotas in Romania and repeals Order no. 9.923 / 2006 for the approval of the technical norms on the activity of the customs authority regarding the administration of community tariff quotas in Romania.
- ❖ The Measures regarding the internal organization of the customs service with respect to the administration of tariff quotas in Romania as well as the specific instructions for completing in RCDPS the customs declaration containing a tariff quota request, shall be adopted by decision of the General Customs Directorate within 5 days from the coming into force of the present technical norms.

Decisions of the Chamber of Deputies regarding certain proposals at European level

Decisions no. 70/2015 and 71/2015 published in the Official Gazette no. 694 of 15 September 2015

- ❖ Decision no. 70/2015 regarding the opinion on the proposal for a Council Directive amending the Directive 2011/16/EU regarding the mandatory automatic exchange of information in the tax area COM (2015) 135.

- ❖ The Chamber of Deputies supports the extension of the applicability of Directive 2011/16/EU by including the automatic exchange of information for advance tax decisions (advance price agreement and individual advance tax rulings), provided that the present proposal will not exceed or violate the national legislation and will not generate additional compliance costs, respectively unnecessary administrative burden.
- ❖ The Chamber of Deputies is preoccupied with the retroactive applicability (for a period of 10 years before the entry into force of the Directive) of the information exchange regarding advance tax decisions and considers that the exchange of information should apply only to the tax decisions granted after the entry into force of the Directive.
- ❖ Decision no. 71/2015 regarding the opinion on the Commission Communication to the European Parliament and Council on fiscal transparency with the view of combating illicit tax evasion COM (2015) 136.
 - ❖ The Chamber of Deputies supports the measures proposed by the Commission, considering that they reflect the objective of combating tax avoidance and illicit tax evasion, as well as tax base erosion.
 - ❖ The Chamber of Deputies admits that, currently, the Romanian legislation contains limited provisions regarding financial transactions in terms of transfer pricing and the concept of intangible assets. Therefore, considers that the primary national concerns should focus on clarifying the methods and means for determining the market price of financial transactions and takes into account the analysis and consideration of options for implementing into national legislation the related OECD recommendations, as well as the development of the administrative practice in this respect.

Approval of the model and content of certain forms

Order no. 2.319 published in the Official Gazette no. 709 of 22 September 2015

- ❖ The Order approves the model and content of the following forms:
 - ❖ 630 "The annual tax assessment decision related to social health insurance contribution" – used for determining the annual payment obligations for social health insurance contributions, as well as for the regularization of related advance payments;
 - ❖ 632 "Decision for the annulment of the annual tax assessment decision related to social health insurance contribution" - used for the total

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annulment of the payment obligations, assessed through the annual tax assessment decision related to social health insurance contribution.

❖ Forms 630 and 632 are communicated to the taxpayers in accordance with the provisions of the Government Ordinance no. 92/2003 regarding the Fiscal Procedure Code.

Republication

❖ The cadastre and real estate advertising law no. 7/1996, published in the Official Gazette no. 720 of 24 September, which enters into force in 90 days after its publication in the Official Gazette.