

5 November 2015

Amendments brought to the New Fiscal Code and the New Fiscal Procedure Code

Government Emergency Ordinance no. 50/2015, published in the Official Gazette no. 817 of 3 November 2015

Amendments brought to the Law no. 227/2015 regarding the Fiscal Code

- ❖ The Ordinance introduces in the category of nontaxable income, for corporate income tax purposes, the income derived and used by private pre-university education units.
 - ❖ According to the new provisions, the tax rate applicable for **dividends** distributed to Romanian individuals and legal entities, as well as for dividends derived by nonresidents from Romania, is reduced from 16% to 5%. The new tax rate is applicable to dividend income distributed starting with 1 January 2016.
 - ❖ The Ordinance increases the threshold applicable to Romanian legal entities in order to qualify as „**micro-enterprises**” from EUR 65.000 to EUR 100.000 for income registered in the previous fiscal year.
 - ❖ A differentiated taxation system is introduced for the micro-enterprises income, depending on the number of employees, as follows:
 - ❖ 1% for micro-enterprises with more than 2 employees, inclusive;
 - ❖ 2% for micro-enterprises with a sole employee;
 - ❖ 3% for micro-enterprises without employees.
- The Ordinance also regulates the situation when the number of employees changes during a fiscal year.
- ❖ According to the Ordinance, the individuals who own an insurance for sickness and maternity on the territory of a state that has concluded with Romania a bilateral agreement for social security, containing provisions in respect of sickness and maternity insurance, which produces effects on Romania’s territory, do not have the quality of taxpayers to the

TAX HOT TOPICS

social health insurance system.

- ❖ The Ordinance brings clarifications regarding the individuals who do not derive income included in the category of those for which the social health insurance contribution is due (the Romanian „CASS”) and who start deriving such income, the individuals exempted from paying such contribution or those for whom the contribution is covered from other sources, these individuals shall submit a request for their exclusion from the category of individuals without income, in order for the social health insurance contribution (the Romanian „CASS”) to be recomputed.
- ❖ According to this Ordinance, starting with 1 January 2016, the applicability of **the reduced VAT rate of 9%** will be extended for the supply of **potable water and for the water used in irrigation and agriculture**.
- ❖ The Ordinance does not introduce the obligation of paying the social health insurance contributions for investment income derived by individuals,

and thus, neither a cap on the social health insurance contribution applicable to any type of income (salaries, independent activities, etc.).

- ❖ The Ordinance provides the extension, from 29 February 2016 to 31 March 2016, of the deadline for submission of the following documents related to the application of local taxes:
 - ❖ statements regarding the buildings with nonresidential or mixed destination being owned by individuals at 31 December 2015;
 - ❖ statements regarding the destination and the taxable value of the buildings owned by legal entities at 31 December 2015;
 - ❖ statements regarding the means of transportation removed from circulation which are owned at 31 December 2015;
 - ❖ the justifications issued in 2015 on the exemptions or reductions of the tax on buildings, land or means of transportation for the entitled persons.



Amendments brought to the Law no. 207/2015 regarding the Fiscal Procedure Code

- ❖ According to the Ordinance, the National Agency of Fiscal Administration was assigned as the competent authority for performing the exchange of information for fiscal purposes with the states which Romania has concluded with a juridical instrument of international law, others than Member States of the European Union.
- ❖ In the event of a prior documentary fiscal check of individuals, regarding the income tax, which concerns the documents and information held or obtained by the central fiscal organ, which are relevant in determining the fiscal situation, the notification of such individuals is mandatory.
- ❖ The Ordinance introduces provisions regarding the compensation of VAT negative amounts recorded in the VAT return related to the fiscal period prior to the opening of the insolvency procedure.
- ❖ Additionally, the Ordinance introduces a supplementary condition for the maintenance of the validity of a payment rescheduling, which entails the obligation of paying the fiscal obligations due by debtors involved in a merger operation and who do not benefit from a payment rescheduling, within 30 days from the communication date of the payment notification.
- ❖ The Ordinance introduces new provisions regarding the amendment of the payment rescheduling decision, as well as in respect of the penalties for non declaration related to the rescheduled fiscal obligations.
- ❖ The Ordinance brings amendments regarding the competence of settling tax challenges submitted by large taxpayers against fiscal administrative documents. Additional information is brought on the application of the New Fiscal Procedure Code for certain documents, procedures, requests, decisions and measures, which are prior to 1 January 2016.
- ❖ The provisions of the Emergency Ordinance no. 50/2015 shall enter into force starting with 1 January 2016.