

# TAX HOT TOPICS

8 July 2015

## Amendments and completions brought to certain normative acts

*Law no. 186/2015 published in the Official Gazette no. 495 of 7 July 2015*

- ❖ The Law approves, with certain amendments and completions, the Government Emergency Ordinance no. 8/2015 amending GEO 28/1999 regarding the obligation of the economic operators to use the electronic fiscal cash registers.
- ❖ Thus, all references to tips and personal cash register are repealed.

## Amendments and completions brought to the Fiscal Code

*Law no. 187/2015 published in the Official Gazette no. 499 of 7 July 2015*

- ❖ The present Law approves the Government Emergency Ordinance no. 6/2015 for the amendment and completion of the Fiscal Code, with certain amendments and completions as further presented:
  - Independency criteria**
  - ❖ Starting 10 July 2015, we have new criteria for definition of the independent activity.
  - ❖ Thus, the independent activity is: *"any activity performed by an individual with the purpose of obtaining income, which fulfils at least 4 of the following criteria:*
    - 1. the individual has the freedom to choose the place and the manner in which performs its activity, as well as of the working schedule;*
    - 2. the individual has the freedom to perform its economic activity for several clients;*
    - 3. the related activity risks are entirely assumed by the individual;*
    - 4. the activity is carried out by means of individual's own assets;*
    - 5. the activity is performed by means of individual's intellectual and/or physical effort, depending on the characteristics of the activity;*
    - 6. the individual is member of an organisation / professional order with representation, regulation and supervision role of the profession, as per the specific regulations applicable to the profession;*



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7. *the individual has the freedom to perform its activity directly, with employed personnel or in collaboration with third parties according to the law*.”
- ❖ The four criteria currently considered when assessing the dependent nature of the activity are eliminated, the dependent activity being seen from now on as *any activity performed by an individual in an employment relationship*.
  - ❖ Starting 10 July 2015 certain amendments are brought to art. 11 (1) of the Fiscal Code as well. Thus:
    - ❖ mandatory social contributions are considered as well for the application of provisions of art. 11 (1).
    - ❖ the new provisions clarify the fact that the adjustments generated further to reclassification / disregard of a transaction / activity refer to the fiscal consequences of such transaction;
    - ❖ the new provisions introduce the obligation of the tax authority to justify disregarding / reclassification of a transaction by specifying the relevant aspects and the means of evidence considered;
    - ❖ the procedure for the application of the above mentioned provisions shall be established via a special Order of the National Agency for Fiscal Administration.

### Reduced VAT rate

- ❖ the application of the 9% VAT rate was extended to beer classified under NC code 22 03 00 10 [*namely, beer made of malt, bottled in recipients exceeding the capacity of 10 l – “draft beer”*] supplied via restaurant and catering services.

