

TAX HOT TOPICS

9 December 2016

Amendments brought to the Fiscal Code and the Fiscal Procedure Code

Government Emergency Ordinance no. 84/2016, published in the Official Gazette no. 977 of 6 December 2016

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

❖ This Emergency Ordinance amends and supplements the Fiscal Code, as follows:

services acquired from the previously mentioned taxpayers.

TITLE I General provisions

TITLE II Corporate income tax

- ❖ The provisions of the Ordinance amend the definition of the stock option plan, as to eliminate the condition according to which the stock option plan includes exclusively securities admitted to trading on a regulated market or traded on an alternative trading system.
- ❖ Completions are brought regarding the regulations applicable to taxpayers declared as inactive/ the taxpayers having the VAT registration cancelled, with respect to the deduction of the related VAT and, if the case, the expenses related to the goods/services acquired during the period when they were inactive or had the VAT registration number cancelled, subsequent to their re-registration for VAT purposes/ re-activation. Similar provisions were introduced also for the beneficiaries of the supply of goods/

- ❖ Completions are brought with regard to the rules applicable to taxpayers who change their financial year and opt for the changed fiscal year to correspond to the financial year.
- ❖ Based on the new provisions, the tax incentive granted for reinvested profit applies for the right to use certain software as well, simultaneous with its unlimited application in time.
- ❖ Clarifications are brought regarding the deductibility of expenses related to non-taxable revenues.
- ❖ Expenses related to the organization of professional and technical education are included in the list of deductible expenses.



TITLE III Tax on micro-enterprise's income

- ❖ The minimum equity threshold based on which the newly-incorporated taxpayers can opt for the application of Title II *Corporate income tax* was reduced to RON 45,000 (previously EUR 25,000).
- ❖ This option is applicable to microenterprises that subscribe an equity of RON 45,000 at least, after their incorporation as well. These can opt for the application of Title II provisions starting with 1 January 2017 or with the quarter when the condition is fulfilled.

TITLE IV Personal income tax

- ❖ According to the new provisions, payers of salary income/ deemed salary, income derived from copy rights, of pensions, as well as other certain legal entities that have the obligation to submit the 112 Form, no longer have the obligation to submit the Informative statement on withholding tax and gains/losses for each income beneficiaries (205 Form).

TITLE V Social security contributions

- ❖ The Ordinance introduces provisions with respect to the tax treatment

applicable to salaries and salary differences established by law, granted for previous periods, amendments which enter into force at the date this Ordinance is published in the Official Gazette.

TITLE VII Value added tax

- ❖ The Ordinance is introduced and regulates the Special VAT regime for farmers.
- ❖ In addition, changes are brought regarding the following aspects:
 - ❖ adjustment of deductible VAT for capital goods;
 - ❖ content of the recapitulative statement;
 - ❖ registration for VAT purposes according to art. 317.
- ❖ The obligation to register into the Registry of Intra-community Operators is eliminated. Additionally, the obligation to submit certain reporting notifications (Forms 392A, 392B, 393) is suspended until to 31 December 2019.
- ❖ Except for the changes brought to Title V, the amendments to the Fiscal Code will enter into force starting with 1 January 2017.

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

- ❖ This Emergency Ordinance also amends and supplements the Fiscal Procedure Code:
- ❖ Changes are brought in respect of the conditions to be met by inactive taxpayers in order to be reactivated.
- ❖ In the context of de-bureaucratization and administrative simplification, completions are brought to the Fiscal Procedure Code regarding payment of tax obligations and submission of tax statements.
- ❖ Also, in case of anticipated tax audits performed for the settlement of VAT returns with negative VAT amounts, the period subject to the VAT audit will exclusively cover the tax periods when the transactions which generated the negative VAT amounts were carried out, except for the situation when aspects that indicate non-compliance with the tax legislation or tax obligations which were incorrectly established are identified.
- ❖ The Ordinance provides that the decision for enforcement of precautionary measures can be appealed to the competent administrative court, within 30 days since its communication, without being necessary to follow the preliminary procedure.
- ❖ Completions are brought with respect to the provisions related to enforcement cases.
- ❖ The threshold for establishing the competent tax bodies dealing with tax appeals was decreased to RON 1 million (from RON 5 million).
- ❖ New terms are defined for the application of the automatic mandatory exchange of information, such as: anticipated tax decision with cross-border applicability, prior agreement regarding transfer pricing, associated entities, transfer pricing and cross-border transaction.
- ❖ The amendments introduce provisions with respect to the application of the mandatory exchange of information regarding the anticipated tax decisions with cross-border application and prior agreement regarding the transfer pricing in order to transpose the Directive 2015/2376/UE amending the Directive 2011/16/UE regarding the automatic mandatory exchange of information in the tax field.

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- ❖ The provisions amending the Fiscal Procedure Code will enter into force at the date when this Ordinance is published on the Romanian Official Gazette, except for the new definitions introduced and the provisions regarding the mandatory automatic exchange of information in the tax field which will enter into force starting with 1 January 2017.
- ❖ The Fiscal Procedure Code will be republished in the Romanian Official Gazette, in order to provide a new numbering to the law articles.

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For details you can contact any member of TaxHouse team or you can send us a message at the email address office@taxhouse.ro.



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