

# TAX HOT TOPICS

9 May 2017

## Main amendments brought to the Methodological Norms for the application of Law no. 227/2015 regarding the Fiscal Code

*Decision no. 284/2017 published in the Official Gazette no. 319 of 04.05.2017*

### Main amendments brought to Decision no. 1/2016 for the approval of the Methodological Norms of Law no. 227/2015 regarding the Fiscal Code

- ❖ This Decision amends and supplements the Methodological Norms of Law no. 227/2015 regarding the Fiscal Code. Please find below the main provisions:

#### ***TITLE I General provisions***

- ❖ This Decision introduces special VAT application rules regarding VAT deduction right for acquisitions of goods and/or services performed by taxpayers during the period when their VAT registration number was cancelled.
- ❖ Clarifications are brought and various examples are introduced with respect to the way in which, further to the VAT re-registration process, invoices related to the supplies of goods/ provision of services performed in the period in which the taxable person had the VAT registration number cancelled will be issued and related reporting obligations will be fulfilled.

#### ***TITLE II Corporate income tax***

- ❖ The Decision provides that the profit invested in the acquisition of the right to use software acquired and used after 1<sup>st</sup> January 2017 is exempted from corporate income tax.
- ❖ An example regarding the computation method for non-deductible expenses related to non-taxable income is introduced.
- ❖ Clarifications are brought with respect to the credits and loans that should be included for the purpose of computing the debt to equity ratio.
- ❖ It is provided that interest expenses and net foreign exchange losses which do not fulfill the debt-to-equity ratio criteria can be carried forward indefinitely until their full deductibility.
- ❖ Clarifications are brought regarding the recovery rules of tax losses incurred by



taxpayers who, as of 1<sup>st</sup> February 2017, apply the micro-enterprise taxation system.

number of employees changes during a quarter.

### ***TITLE III Tax on micro-enterprise's income***

- ❖ According to the new provisions, Romanian legal entities carrying out activities corresponding to the NACE codes provided by Law no. 170/2016 regarding the specific tax on certain activities and which have not exceeded the equivalent in RON of EUR 100,000, simultaneously fulfilling the micro-enterprise's conditions, will apply the micro-enterprise taxation system on income.
- ❖ Clarifications are brought on the applicability of the micro-enterprise taxation regime and on the corresponding exit rules.
- ❖ Therefore:
  - ❖ For the purpose of determining the RON equivalent of the EUR 500,000 threshold and the 20% share of income from consultancy and management activities, the income derived after 1<sup>st</sup> February 2017 shall be taken into consideration.
  - ❖ Completions are brought in respect to the applicable tax rates for cases when the

### ***TITLE IV Personal income tax***

- ❖ According to the new provisions, individuals carrying out seasonal activities under an individual labor agreement concluded for 12 months will be personal income tax exempted. The exemption is also granted if the seasonal activity is carried out under a part time labor agreement.
- ❖ Amendments are brought on the personal income tax computation, by means of excluding from the gross income obtained with respect to the main employment position of the medical subscription paid by employees together with the voluntary health insurance premiums, as long as their value does not exceed the amount of EUR 400 per year.
- ❖ Completions are brought regarding the transfer of the real-estate properties from the personal patrimony, including details on the related tax computation methodology.

### ***TITLE V Social security contributions***

- ❖ The Decision aligns the provisions of the methodological norms to the latest amendments brought to the Fiscal Code on the removal of the thresholds that were previously taken into

consideration when computing the social security contribution and the individual health fund contribution related to salary income or deemed salary income derived.

- ❖ Dividend income, regardless if paid or not during the previous fiscal year, shall be included in the monthly basis for computation of the health fund contribution.
- ❖ Clarifications are brought with respect to the computation of the annual social health fund contribution due by individuals deriving income from the following activities:
  - ❖ independent activities;
  - ❖ agricultural, forestry and pisciculture activities;
  - ❖ associations with legal entities which are taxpayers in accordance with Title II or III;
  - ❖ grant of the use of goods.

### ***TITLE VI Tax on the income derived from Romania by non residents and tax on foreign representative offices established in Romania***

- ❖ The application norms regarding the annual declaration on withholding tax, as well as the appendix providing the model of such declaration have been removed.

### ***TITLE VII Value added tax***

- ❖ The decision aligns the domestic provisions to the European ones by defining the immovable goods categories used in order to determine the place of supply of services performed in connection with such immovable goods.
- ❖ Changes are brought with respect to adjustments made to the taxable base in respect of receivables that can not be cashed because of the bankruptcy of the beneficiary or because of the implementation of a reorganisation plan confirmed by a court ruling.
- ❖ A confirmation was introduced in order to specify that the tax base for imports of goods does not include the amount of the work and valuation services performed to tangible goods, regardless if such services were rendered on the European Union territory or outside.
- ❖ Certain exemptions are introduced to the list of seeds and oil fruits, seeds and various fruits, industrial plants or medicinal plants, straws and feeds category of goods for which the reduced VAT rate of 9% is applicable.
- ❖ Completions are brought to the regulations related to the adjustment of the deductible VAT in case of capital goods. Also, existing examples have

## TAX HOT TOPICS

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been updated in order to detail the provisions regarding the VAT adjustments performed to capital goods.

- ❖ Application norms for the Special VAT regime for farmers are introduced by the present Decision.

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