

31 July 2017

### Amendments brought to the Fiscal Code

*Law no. 177/2017 published in the Official Gazette no. 584 of  
21 July 2017*

- ❖ Law no. 177/2017 approves the Government Emergency Ordinance no. 3/2017 for amending and completing Law no. 227/2015 regarding the Fiscal Code, with amendments and completions, among which we mention the following:
  - ❖ Starting with 1<sup>st</sup> of October 2017, the list of expenses related to missing or damaged, inventories that can be considered deductible from a corporate income tax perspective will include goods close to expiration date, products of animal origin, agri-food products that are unfit for human or animal consumption, that will be used in accordance with the provisions of the law to combat food waste (upon its entering into force).
  - ❖ The law provides that the regulations regarding microenterprise income tax prevail over those of Law no. 170/2016 regarding the specific tax on certain activities. Thus, Romanian legal entities which apply the provisions of Law no. 170/2016 and which obtained, at 31 December 2016, income ranging between EUR 100,001 and EUR 500,000, will be subject to microenterprise income tax as of August 1<sup>st</sup>, 2017, provided that the conditions specific to microenterprises are also met.
  - ❖ Medical subscription services supported by the employer for its employees, will be considered non-taxable income within the limit of an annual amount of EUR 400 for personal income tax computation purposes (within the same limit are also included the voluntary health insurance premiums).
  - ❖ Starting with 1<sup>st</sup> of October 2017, renting, leasing, granting over a certain period of time, for consideration, certain rights such as usufruct and superficies, over an immovable property are included in the category of supplies of goods/services performed on a continuous basis, for which the VAT chargeable event occurs at the payment date of the goods/services stipulated in the contract or, in the absence of such contractual provisions, at the date of issuing an invoice, but the settlement period cannot exceed one year.
  - ❖ The VAT registration will no longer be conditioned by the justification of “the intention and capacity to carry out economic activities”. Instead, the registration for VAT purposes will depend on the fiscal risk of the taxable persons - the criteria for its determination will be further established by a

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NAFA Order. Additionally, the cancellation of the registration for VAT purposes could also be disposed in case the taxable persons present a high fiscal risk.

- ❖ New amendments are brought to the *Title VIII - Excise duties and other special taxes* of the Fiscal Code, amongst which we mention the amendments regarding the level of the excise

duties in the context of the republication of Appendix no. 1 presenting the value of the excise duties for the period 2017-2022, amendments regarding the authorisation of the economic operators that carry out activities with excisable goods under excise duty suspension regime, the warehousing regime, etc.

*Ordinance no. 4/2017 for the completion and amendment of Law no. 227/2015 regarding the Fiscal Code, published in the Official Gazette no. 598 of 25 July 2017*

- ❖ The Ordinance provides that, in the case the monthly gross income obtained by an individual based on a full time or part-time employment contract is lower than the minimum gross salary, the income taken into account for the determination of the monthly taxable base for social security and health insurance contributions owed by the employer, is the minimum gross salary, established for the month in which the social

security contribution and respectively health insurance contribution are due, corresponding to the number of working days in the month in which the contract was active, with certain exceptions.

- ❖ The provisions of Ordinance no. 4/2017 come into force starting with 1<sup>st</sup> of August 2017 and apply starting with the income obtained derived for August 2017.

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