

# TAX HOT TOPICS

April 2016

## Amendments to the model and content of the Form 394

*Order no. 1105/2016 published in the Official Gazette no. 242 of 1 April 2016*

- ❖ The Order modifies Order no. 3769/2015 and prorogues its entry into force for 1 July 2016.
- ❖ The hereby provisions apply in respect to the operations performed on national territory starting with July 2016.
- ❖ Appendices no. 1 and 2 regarding the model and content of form (394) - **„Informative statement regarding deliveries, supplies and acquisitions conducted on the national territory by the persons registered for VAT purposes”** as well as their filling in and submission instructions, are amended and completed accordingly.
- ❖ The Order enters into force starting 1 April 2016.

## New forms in the administration of income tax and social security contributions due by individuals

*Order no. 1110/2016 published in the Official Gazette no. 257 of 6 April 2016*

- ❖ The Order amends Order no. 3622/ 2015. The amendments brought include, inter alia, the following:
  - ❖ Appendix no. 1 is completed with Form (256) **„Tax assessment decision issued ex officio for income obtained by individuals”** together with the **„Appendix to tax assessment decision issued ex officio for income obtained by individuals”** and with Form (257) **„Decision for cancellation of the tax assessment decision issued ex officio for the income obtained by individuals”**;
  - ❖ The Forms are used with respect to assessments carried out ex officio by the competent central tax authority starting with year 2016.



### **Establishment of the necessary measures to provide the financial resources for the purchase of the artwork „Cumintenia Pamantului”, by sculptor Constantin Brancusi**

*Emergency Ordinance no. 10/2016 published in the Official Gazette no. 258 of 06 April 2016*

- ❖ According to the Ordinance, the legal entities and individuals, irrespective of their funding and subordination form, can donate amounts for the purchase by the state through the Ministry of Culture, of the artwork „Cumintenia Pamantului”, by Constantin Brancusi. Thus, by way of exception from:
  - ❖ the provisions of art. 25 of Law no. 227/2015 regarding the Fiscal code, taxpayers, legal entities in accordance with Title II „Corporate income tax” of the same law, deduct from the corporate income tax the amounts representing money donations granted according to the provisions of the present Ordinance;
  - ❖ the provisions of art. 53 of Law no. 227/2015 regarding the Fiscal code, taxpayers, legal entities in accordance with Title III „Tax on micro-company income” of the same law, deduct from the taxable base the amounts representing money donations made according to the present Ordinance;
- ❖ the provisions of art. 68, para. (7), letter e) of Law no. 227/2015 regarding the Fiscal code, taxpayers, private individuals in accordance with Title IV „Individual Income tax” of the same law, for whom the net annual income is established on a real system basis, based on accounting records, are entitled to deduct expenses representing amounts paid for the purchase of the artwork based on justifying documents attesting the deposit of the amounts in the related bank accounts. These provisions apply in respect to amounts paid in 2016, irrespective of whether the activity is carried out individually and/or in a form of association.
- ❖ In case by 31 October 2016, the Romanian state will not attain the ownership right over the artwork, free of any liens, the amounts collected under the terms of the present Ordinance are returned to donors.

## The correction procedures for errors related to annual financial statements and annual accounting reports

*Order no. 450/2016 published in the Official Gazette no. 274 of 12 April 2016*

- ❖ The Order approves the procedure for correcting the errors contained in the annual financial statements and annual accounting reports submitted by economic operators and non-profit legal entities.
  - ❖ The procedure applies for economic operators and non-profit legal entities that submit, with the territorial registry units of the Ministry of Public Finances, another set of annual financial statements and annual accounting reports, respectively, for the same reporting period. The errors that could be subject to correction include, inter alia, errors determined by the incorrect completion of:
    - ❖ The name of the reporting entity;
    - ❖ The NACE code;
    - ❖ The ownership form;
    - ❖ The number of employees and/or other indicators reported through the form „Informative data”;
    - ❖ The electronic transmission of annual financial statements/ annual accounting reports instead of inactivity instatement or vice versa.
- ❖ The procedure also apply for the correction of the errors pertaining to the reporting of the financial year 2014, the related submission deadline being **29 April 2016**.

## Amendments to the procedure of publication of the list of debtors with outstanding tax liabilities

*Order no. 1164/2016 published in the Official Gazette no. 274 of 12 April 2016*

- ❖ According to the amendments to the Procedure for publication of the list of debtors with outstanding tax liabilities, and the amount of those liabilities, the outstanding tax liabilities whose total amount falls below the following ceilings will not be subject to publication:
    - ❖ 100,000 lei in case of debtors qualifying as large taxpayers;
- ❖ 50,000 lei in case of debtors qualifying as medium size taxpayers;
  - ❖ 10,000 lei in case of other categories of legal entities and individuals carrying out freelance activities;
  - ❖ 1,500 lei for individuals (other than the aforementioned ones).

- ❖ In case of inconsistencies between the debtors' own records and the amounts contained in the notifications received, within 5 days of receipt of the notification, the debtors should appear before

the central tax authority in order to clarify these aspects.

### **The rights and obligations of the individual subject to personal tax inspection**

*Order no. 1162/2016 published in the Official Gazette no. 292 of 18 April 2016*

- ❖ The Order approves the Carta of rights and obligations of individuals subject to personal tax inspection, mentioned in the appendix which form part of the present order.
- ❖ The inspection of individuals' personal tax status in respect of the income tax, provided for under art. 138 of Law

no. 207/2015 regarding the Fiscal procedural code, shall be deemed to represent the entirety of all activities carried out by the central tax authority having as object the review of all patrimonial rights and obligations, cash flows and other relevant items for determining the real tax situation of the individual under review.

### **Amendments/completions on parental leave and the monthly childcare allowance**

*Law no. 66/2016 published in the Official Gazette no. 304 of 20 April 2016*

- ❖ Amongst the amendments brought by the Law, we mention the following:
  - ❖ The monthly childcare allowance is established at 85% of the average net income realised in the last 12 months of the last 2 years prior to the child's birth and cannot be lower than 85% of the amount of the minimum gross salary guaranteed for payment.

- ❖ The level of the monthly allowance provided by art. 2 para (2) is increased by 85% of the amount of the minimum gross salary guaranteed for payment, for each child born from a twin, triplet or multiple pregnancy, starting with the second child from such birth.
- ❖ If, during the period in which they benefit from parental leave, as provided by art. 2 para (1),

the individuals derive income subject to personal income tax as per art. 3 (e.g. further to their return to work), they have the right to a monthly insertion incentive representing 50% of the minimum

level of the allowance set forth by art. 2 para. (2).

- ❖ This Law enters into force starting with **1 July 2016**.

### **Technical norms for the use of the Import Control System, the Re-Export Notification and the Export Control System**

*Order no. 1195/2016 published in the Official Gazette no. 306 of 21 April 2016*

- ❖ The technical Norms establish the procedure of introducing goods into the customs territory of the EU through the Import control system.
- ❖ At its entry into force, this Order repeals Order no. 2477/2009 approving the

technical Norms for the use of the Import Control System.

- ❖ The Order enters into force starting with **1 May 2016**.

*Order no. 1196/2016 published in the Official Gazette no. 306 of 21 April 2016*

- ❖ The present Order approves the technical norms for the use and filling in of the Re-Export Notification, listed in the appendix to the present order.

- ❖ The Order enters into force starting with **1 May 2016**.

*Order no. 1194/2016 published in the Official Gazette no. 309 of 22 April 2016*

- ❖ The Order approves the technical norms for the use of the Export Control System, listed in the appendix to the present order.
- ❖ At its entry into force, this Order repeals Order no. 1626/2009 for approval of

the technical norms for the use of the Export Control System.

- ❖ The Order enters into force starting with **1 May 2016**.

## Ratification of the Multilateral Agreement on automatic exchange of financial account information

*Law no. 70/2016 published in the Official Gazette no. 328 of 28 April 2016*

- ❖ The present Law ratifies the multilateral competent authority Agreement on automatic exchange of financial account information, signed in Berlin on 29 October 2014.
- ❖ According to the present Agreement, the information to be exchanged for each reporting account of the other jurisdiction is the following:
  - ❖ The name, address, TIN, date and place of birth (for individuals);
  - ❖ The account number;
  - ❖ The name and identification number (if available) of the reporting financial institution;
  - ❖ The account balance or value at the end of the relevant calendar year or other appropriate reporting period;
  - ❖ For any custodial account:
    - the total gross amount of interest, the total gross amount of dividends and the total gross amount of other income derived with respect to the assets held in account, in any case, paid or credited to the account (or with respect to the account) during the calendar year or other appropriate reporting periods;
    - the total gross proceeds from the sale or redemption of financial assets paid or credited to the account during the calendar year or other appropriate reporting periods.
- ❖ In case of any depository account, the total gross amount of the interest paid or credited to the account during the calendar year or other appropriate reporting periods;
- ❖ In case of any other account, the total gross amount paid or credited to the account holder with respect to the account in relation to which the reporting financial institution is the debtor, including the aggregate amount of any redemption payments made by the account holder during the year of other appropriate reporting periods.

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