

TAX HOT TOPICS

28 March 2018

Main amendments and completions brought to the Fiscal Code

Law no. 72/2018 published in the Official Gazette no. 260 of 23.03.2018

- ❖ The Law amends and supplements Law no. 25/2017 for the amendment and completion of Law no. 227/2015 regarding the Fiscal Code.
- ❖ The main aspects provided under this Law refer to the following rules:
 - ❖ **Net loss deductibility in case of assigned receivables;**
 - ❖ Amendments regarding the tax treatment applicable from a personal income tax and social security contributions perspective with respect to the premium insurance costs and **subscriptions for medical services** by applying similar rules for both categories. References to Law no. 95/2006 regarding the health reform, in relation to provisions applicable in case of subscription of medical services have been eliminated.
 - ❖ **The VAT threshold applicable in case of companies which apply the special regime for small enterprises increases from RON 220,000 to RON 300.000.** This Law also provides transitory provisions on the VAT registration procedure applicable following the introduction of the new threshold.
- ❖ The provisions mentioned under this Law shall enter into force within 3 days from the date of publication in the Official Gazette, except for the provisions referring to the increase of the threshold applicable for small enterprises applying the special exemption regime which shall enter into force as of 1 April 2018.

Emergency Ordinance no. 18/2018 published in the Official Gazette no. 260 of 23.03.2018

- ❖ The Emergency Ordinance amends and supplements, among others, Law no. 227/2015 regarding the Fiscal Code, as follows:

Title IV – Personal income Tax

- ❖ A new mechanism regarding taxation of income obtained by individuals from economic activities has been introduced as regards the: (i) **self-assessment in**

computation of personal income tax and social security contributions, (ii) elimination of anticipated payments and (iii) introduction of a **single payment deadline** for these tax obligations.

❖ The amendments brought by this Emergency Ordinance mainly refer to the following categories of income:

- ❖ Income obtained from independent activities;
- ❖ Income obtained from intellectual property rights;
- ❖ Income obtained from agricultural activities, forestry and fishing activities;
- ❖ Income obtained from rental of goods;
- ❖ Income obtained from prizes and gambling activities;
- ❖ Income obtained from investment;
- ❖ Income obtained from other sources;
- ❖ Income obtained from abroad.

❖ Self-assessment is performed via submission of the **Sole Tax Return regarding personal income tax and social security contributions due by individuals** (further referred to as "Sole Tax Return"). The Sole Tax Return includes information on both the estimated income / income norms as well as the income actually obtained.

❖ The deadline for the submission of the Sole Tax Return is:

- ❖ 15 March inclusively of the year following the one the income is obtained for the income actually obtained. The same deadline, also applies for the payment of the

personal income tax and of the social security contributions liabilities.

- ❖ 15 March inclusively of the current year in case of the estimated income to be obtained.

❖ By exception to the general rule, the following shall be considered with respect to the assessment of the income obtained for 2017 and 2018:

- ❖ For the income obtained in 2017 - the deadline for the submission of Sole Tax Return is on 15 July 2018, following that the tax authorities issue a tax assessment decision in this respect;
- ❖ For the income to be obtained in 2018 - the deadline for the submission of the Sole Tax Return is on 15 July 2018, the assessment being performed by the individual within the same legal deadline.

❖ A bonus policy will apply to those taxpayers who submit the Sole Tax Return via electronic means and / or pay in advance the income tax owed.

❖ The income obtained from intellectual property rights has been excluded from the category of income obtained from independent activities and is treated separately within a separate category of income.

❖ As such, the income tax on income from intellectual property rights will be computed by applying a rate of 10% on the value of the net income and shall be withheld at source at the time is paid by the income payer. However, the individual can opt for the computation of the net income

based on the real system, the same rules valid in case of independent activities applying in this case as well.

- ❖ According to the new provisions, the option exercised by individuals who obtain salary income and deemed salary as regards to the redirection of a 2% rate of the monthly income tax towards non-profit entities may remain valid for a period of up to 2 consecutive years.

Title V – Social security contributions

- ❖ Similar to the provisions applicable in case of personal income tax, the social security contribution due for the income obtained from independent activities and intellectual property rights, under certain conditions, will be determined by the individual via the Sole Tax Return based on the estimated income for the current year.
- ❖ The social security contribution computation will be performed by applying the appropriate tax rate to the chosen amount of income, at least equal to 12 gross minimum wages. If the estimated income does not exceed this threshold, the individual does not owe the social security contribution, but can still opt for the payment of the social security contribution under the same conditions as when the threshold is exceeded.
- ❖ Specific rules are introduced for individuals who obtain income from intellectual property rights considering the value of the income actually obtained, the number of income sources, quality of the income payer (i.e. the income payer may be obliged to compute, withhold and perform the payment of the social security contribution on the beneficiary's behalf).

- ❖ **The deadline for the submission of Form 205** has been changed from the last day of February to **31 January** of each year for the previous year.
- ❖ **Transitional provisions** have been introduced with respect to the income obtained in 2018 by individuals from intellectual property rights and gambling activities.

- ❖ The Sole Tax Return shall also be prepared in order to determine the health contribution due by individuals (e.g. for income obtained from independent activities, rental of goods, investments, intellectual property rights, etc.).
- ❖ The computation of the health contribution is based on the estimated income for the current year. If the estimated annual income is higher than the level of 12 minimum gross salaries, the health contribution will be computed on this amount.
- ❖ Specific provisions are introduced for the computation and payment of the health contribution in case of individuals not deriving any income or for those who opt for the payment of the contributions.
- ❖ If the estimated income used as a basis for the computation of the social security and health contribution changes during the year, individuals may amend the information included in the Sole Tax Return initially filled in at any time until the legal deadline for submission.
- ❖ The final computation of the social security contribution and the health fund

TAX HOT TOPICS

contribution for the current year shall be performed until 15 March of the following year depending on the income obtained through the submission of the Sole Tax Return. The payment deadline is 15 March of the following year for the current year. A similar bonus policy as applicable to Personal income tax is also applicable in this case.

- ❖ Individuals who have already submitted the "Statement regarding the income obtained in Romania" (Form 200) and the "Statement regarding the income obtained abroad" (Form 201) are no longer required to submit the Sole Tax Return.
- ❖ The following statements submitted for 2018 year shall be replaced with the Sole Tax Return:
 - ❖ Form 220 regarding the estimated income / norms of income;
 - ❖ Form 221 regarding the income obtained from agricultural activities imposed based on income norms;
 - ❖ Form 600 regarding the income basis for computation of the health fund contribution and the framing of the realised income in the minimum threshold for assessing the health contribution.

Title VI – Tax on income obtained from Romania by non-residents and tax on foreign representative offices established in Romania

- ❖ According to the provisions underlined by the Emergency Ordinance, the income obtained from gambling activities obtained by non-residents are no longer subject to withholding tax, but are taxed according to the provisions of Title IV Personal income tax.
- ❖ The deadline for the submission of Form 207 has been changed from the last day of February to January 31 of each year for the previous year.
- ❖ Separately, the Emergency Ordinance amends other normative acts in order to align them with the latest amendments brought to the Fiscal Code in the field of income tax and social security contributions, as follows:
 - ❖ Law no. 207/2015 regarding the Fiscal Procedure Code, as further amended and supplemented.
 - ❖ Law no. 263/2010 regarding the public pension system, as further amended and supplemented.
 - ❖ Law no. 95/2006 regarding the health reform, republished.
 - ❖ Law no. 416/2001 regarding the minimum wage, as further amended and supplemented.

TAX HOT TOPICS

❖ The amendments brought to the Fiscal Code through this Emergency Ordinance will come into force on the date of its publication in the Official Gazette, while the

amendments brought to Law no. 263/2010 on the public pension system will enter into force as of 1 April 2018.

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For further details you can contact any member of the Taxhouse team or you can send us an e-mail at office@taxhouse.ro.