

TAX HOT TOPICS

September - November 2017

Fiscal facilities granted to individuals who carry out research and development and innovation activities

Order of the minister of public finance and minister of research and innovation no. 2.326/2.855/2017 published in the Official Gazette no. 717 of 05.09.2017

- ❖ The Order provides the conditions which need to be fulfilled so that the individuals who derive employment income or alike, as a result of carrying out research and development and innovation activity are exempted from individual income tax.
- ❖ As at the date when the present order enters into force, Order no. 4.947/899/2.018/1.840/906/2016 regarding the classification in the research and development activity and / or technological development, published in the Official Gazette no. 718 of 16 September 2016, is repealed.

Order of the minister for public finance, the minister of labour and social justice and the minister of health no. 1.024/1.582/934 published in the Official Gazette no. 716 of 05.09.2017

- ❖ Starting November 2017, the reporting obligations corresponding to October 2017, provided by form 112 “The return regarding social security contributions, personal income tax and nominal records of insured taxpayers” will be compulsory submitted by electronic means.
- ❖ The Order approves the model, content, the submission and management method of the “The return regarding social security contributions, personal income tax and nominal records of insured taxpayers”.

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Approval of the technical Norms for the authorisation to defer the payment of import duties owed in relation to two or several customs operations

NAFA's president Order no. 2.670/2017 published in the Official Gazette no. 744 of 15.09.2017

- ❖ The present Order applies starting 2 October 2017. The Order establishes the technical norms for the authorisation to defer the payment of the import duties owed in relation to two or several customs operations.
- ❖ These are provided in the Annex which is an integral part of the order.

Exemptions in the VAT field

Order of the minister of public finance no. 2.376/2017 published in the Official Gazette no. 745 of 15.09.2017

- ❖ The Order approves the VAT applicable exemption procedure as referred to in art. 294 para. (1) let. p) of Law no. 227/2015 regarding the Fiscal code. outside the European Union, are exempted from VAT.
- ❖ Also, the order provides the documentation which needs to be submitted with the competent tax authority in view of the VAT reimbursement, while the procedure for tax reimbursement will be carried out according to the procedure established by order of NAFA president.
- ❖ According to the provisions of art. 294 para.(1) let. p), the supply of goods to organisations recognized to transport or to ship such goods outside the European Union as part of humanitarian, charitable or educational activities, which take place

Approval of the model, content and instructions for filling several forms

Order o NAFA president no. 2.372/2017 published in the Official Gazette no. 747 of 18.09.2017

- ❖ Starting 1 January 2018, form 700 will have to be used for the registration / modification of the types of tax obligations which a taxpayer / payer has the obligation to declare.
- ❖ The declaration is submitted exclusively by electronic means, through the National

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Electronic System, within the terms stipulated by the legislation in force.

Approval of the Norms regarding the authorization for using the global guarantee with respect to two or several operations, declarations or customs regimes, except for the union / common transit regime

Order of NAFA president no. 2.671/2017 published in the Official Gazette no. 748 of 18.09.2017

- ❖ The technical norms establish the authorisation procedure for using the global guarantee, including a possible reduction or exemption, constituted for covering the importation tax corresponding to the customs duty and other taxes due on importation of goods, related to two or several operations, declarations or customs regimes, except for the union / common transit regime.
- ❖ The most important rules provided by the norms are:
 - ❖ the procedure regarding the request for the authorization to use the global guarantee;
 - ❖ the procedure for issuing the authorisation for the use of the global guarantee;
 - ❖ monitoring the conditions and criteria which need to be fulfilled by the holder of the authorisation to use the global guarantee and the verification of the reference amount;
 - ❖ the appeal possibilities which the applicants or holders of the authorisation of the global guarantee have against the decision issued by customs bureau of guarantee.

Amendments brought to the technical Norms regarding the uniform application of the customs provisions in free zones

Order of NAFA president no. 2.661/2017 published in the Official Gazette no. 750 of 19.09.2017

- ❖ The main amendments regarding the uniform application of the customs regulations in the free zones refer to:
 - ❖ The responsibilities of the holder of the approval decision for the operative evidence (records), issued by the supervising customs office for carrying out storage activities of non-EU goods in the free zone;

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- ❖ Approval decision for the operative evidence (records);
- ❖ The conditions of use and consumption for non-EU goods without generation of customs debt.

- ❖ In addition, the Order also brings amendments to the Annex regarding the “Decision for the approval of the operative evidence”.

Order of the minister of public finance and vice-prime minister, the minister for regional development, public administration and European funds no. 1.016/3.824/2017 published in the Official Gazette no. 752 of 20.09.2017

- ❖ The Order amends the Order of the minister of public finance and vice-prime minister, the minister for regional development and public administration no. 4.031/2.067/2015 for the approval of the model and content of form 401

“Informative statement regarding the real estate owned by residents of other EU member states on the Romanian territory”.

NAFA's president Order no. 2.743/2017 published in the Official Gazette no. 763 of 26.09.2017

- ❖ Taxpayers registered for VAT purpose according to art. 316 of Law no. 227/ 2015 regarding the Fiscal code, who starting 1 October 2017 opt to apply the VAT split payment mechanism are required to submit form 086.

- ❖ The form provides that the VAT split payment mechanism will be applicable starting the following day of the registration in the Register of taxpayers who apply the VAT split payment, which is posted on the NAFA's website.

New criteria for fiscal risk assessment in case of (re)registration and cancellation of registration for VAT purposes

Order of the NAFA President no. 2856/2017 published in the Official Gazette no. 780 of 3 October 2017

- ❖ The new Order establishes the criteria for fiscal risk assessment applicable for taxable persons having the place of economic activity in Romania. The Order

applies both to taxable persons that are already registered for VAT purposes and also to those requesting (re)registration for VAT purposes.

- ❖ Thus, starting with October 2017, taxable persons with a high fiscal risk will be denied the request for (re)registration for VAT purposes, and taxable persons already registered will have it cancelled.
- ❖ The level of the fiscal risk is determined based on certain specific assessment criteria. A taxable person is classified as having a high fiscal risk profile if its score is below 51 points.
- ❖ The 15 criteria considered for the fiscal risk assessment in case of taxable persons that apply for VAT registration concern various aspects related to the headquarters, insolvency/ bankruptcy, fiscal inactivity, temporary inactivity with the Trade Registry, rejection/ cancellation of the VAT registration, outstanding tax liabilities, offences, crimes, income, fiscal residency, bank account, business activity, third parties, accounting services and employees.
- ❖ For the fiscal risk assessment in case of taxable persons that are already registered for VAT purposes, the Order provides 5 criteria applicable both in respect of the default cancellation of the registration for VAT purposes and for the re-registration for VAT purposes of taxpayers that no longer have a high fiscal risk profile. The criteria cover various conditions in respect of headquarters, employees, accounting services, reporting discrepancies and tax residence.
- ❖ Order 2856/2017 repeals Order of NAFA President no. 605/2017 on establishing the criteria for registration for VAT purposes.

International treaties

Order of the Minister of Foreign Affairs no. 1690/2017 published in the Official Gazette no. 792 of 6 October 2017

- ❖ The Agreement between the Government of Romania and the Government of the People's Republic of China for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income was signed in Bucharest on 4 July 2016, ratified by Law no. 99/2017, published in the Official Gazette of Romania, Part I, no. 351 from 12 May 2017. It entered into force on 17 June 2017.
- ❖ The Agreement between the Government of Romania and the Government of the People's Republic of China for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, signed in Beijing on 16 January 1991, shall be deemed as terminated on the date of entry into force of this Agreement and shall cease to apply from the date upon which this Agreement has effect, namely starting with 2018.

Approval of the template and content of form 110 „Reconciliation statement /refund request of income tax withheld at source”

Order of the NAFA President no. 2799/2017 published in the Official Gazette no. 793 of 6 October 2017

- ❖ The Order approves the template and content of form 110 – „Reconciliation statement /refund request of income tax withheld at source”.
- ❖ The new form shall be submitted by income payers who withheld at source an income tax higher than the amount due and perform a reconciliation of the amounts refunded to the income recipients with the same type of tax liabilities due during the fiscal period in which the refund was performed.

Procedure and conditions for approving the transfer of the amounts from the VAT account

Order of the Minister of Finance no. 2927/2017 published in the Official Gazette no. 813 of 13 October 2017

- ❖ The Order regulates the Procedure for approving the transfer of amounts from the VAT account to the current account of the taxable person.
- ❖ Thus, the following documents are approved:
 - ❖ Model and instructions for the filling-in of form (310) “Request for approving the transfer of amounts from the VAT account”;
 - ❖ Model and content of the (i) Report regarding the request for approving the transfer of the amounts from the VAT account, (ii) Decision regarding the request for approving the transfer of the amounts from the VAT account, (iii) Invitation for the participation of the taxpayer to the hearing.

Increase of the ceiling for the special regime applied to small enterprises for VAT purposes

Decision for implementing special derogating measures from art. 287 of the Directive 2006/112/EC regarding common system of Value Added Tax

- ❖ Details regarding the increase of the ceiling for the special regime applied to small enterprises for VAT purposes may be found in the summary sent by the Taxhouse team on 18 October 2017.

Procedure for the cancellation of late payment penalties related to the main tax liabilities representing VAT, in case of taxpayers opting for split VAT payment

Order of the Minister of Finance no. 2800/2017 published in the Official Gazette no. 846 of 25 October 2017

- ❖ The new Order approves the Procedure for the cancellation of late payment penalties related to the main tax liabilities representing VAT, in case of taxpayers opting for split VAT payment.
- ❖ The Order approves the model and content of the forms relevant for the application of these provisions.

Amendments and completions of certain procedures and forms in the tax field

Order no. 3.289/2017 published in the Official Gazette no. 929 of 27 November 2017

- ❖ The Order of NAFA's president amends and completes Order no. 3.846/2015 approving the application procedures of art. 92 of the Fiscal Procedure Code, as well as the model and content of certain forms.
- ❖ Thus, the flows regarding declaration of inactive taxpayers, correction of material errors and reactivation of taxpayers that were declared inactive by the tax authorities with enforcement attributions are included in the application procedures of art. 92 of the Fiscal Procedure Code.
- ❖ In addition, the procedure regarding reactivation of inactive taxpayers is updated along with the forms used for their reactivation so that they match the last amendments brought to the Fiscal

Procedure Code via Emergency Ordinance
no. 84/2016.

Order no. 3.357/2017 published in the Official Gazette no . 931 of 27 November 2017

- ❖ This Order sets forth the procedure through which tax receivables regarding reimbursement or refund rights can be assigned according to art. 28 of the Fiscal Procedure Code.
- ❖ In addition, the Order approves the model of Form “Notification for assignment of the refund/reimbursement right”.

Order no. 3.300/2017 published in the Official Gazette no. 938 of 28 November 2017

- ❖ This Order amends and completes Order no. 2.011/2016 that establishes the VAT registration procedure upon request of the taxable persons whose registration was canceled.
- ❖ A series of forms used within this procedure, such as form 099 – VAT registration request as per art. 316 para. (12) of Law 227/2015 regarding the Fiscal Code, as subsequently amended and supplemented, was also subject to certain changes.

Order no. 3.004/2017 published in the Official Gazette no. 937 of 28 November 2017

- ❖ The Order approves the Resolution Procedure of tax appeals provided by art. 366 para. (2), art. 369 para. (5), art. 374 para. (2), art. 377 para. (4), art. 382 para. (2), art. 385 para. (4), art. 390 para. (2) and art. 393 para.(4) of Law no. 227/2015 regarding the Fiscal Code.
- ❖ This procedure, applicable for excise duties, shall be applied by the special division with management attributions on specific fields as provided by the Ministry of Public Finances and also by appellants.

Order no. 3.312/2017 published in the Official Gazette no. 926 of 24 November 2017

- ❖ This Order refers to the cancellation of NAFA’s president Order no. 230/2013 for the approval of the procedure for accessing the information contained in the fiscal file, made available to taxpayers on NAFA’s website within the Virtual Private Space of the taxpayer.

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Order no. 2.998/2017 published in the Official Gazette no. 919 of 23 November 2017

- ❖ This Order amends and completes MPF's Order no. 246/2005 approving the Methodological Norms for using and filling in the payment order for the State Treasury (OPT) and of the electronic payment order.

Order no. 3.076/2017 published in the Official Gazette no. 911 of 21 November 2017

- ❖ This Order approves the model and content of the forms drafted by the tax information structures with audit attributions, as follows:
 - ❖ Service order;
 - ❖ Invitation to headquarter;
 - ❖ Request for information or documentation;
 - ❖ Affidavit;
 - ❖ Minute;
 - ❖ Minute of removal/returning documentation;
 - ❖ Notice.

Normative acts of the National Institute of Statistics

Order no. 1.887/2017 published in the Official Gazette no. 939 of 28 November 2017

- ❖ According to the Order of the President of the National Institute of Statistics, the threshold of RON 900,000 will remain valid in 2018 for both intra-community departures and intra-community arrival of goods.

Order no. 5.384/2017 published in the Official Gazette no. 909 of 21 November 2017

- ❖ The Classification of Occupations in Romania, approved by Order no. 1.832/836/2011, is amended and completed.

The value of meal vouchers and childcare vouchers

Order no. 1.851/2017 published in the Official Gazette no. 935 of 27 November 2017

- ❖ The Order sets forth the monthly value of childcare vouchers to RON 440 as of November 2017.

Order no. 1.852/2017 published in the Official Gazette no. 935 of 27 November 2017

- ❖ The Order sets forth the maximum nominal value of a meal voucher to RON 15.09, as of November 2017.

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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.