

TAX HOT TOPICS

Amendments and completions to certain tax forms

Order no. 4024/2014, published in the Official Gazette no. 2 of 5 January 2015

- ❖ The present Order modifies and completes the Order of the president of the National Agency for Tax Administration no 1950/2012 regarding the approval of the model and content of certain tax forms as follows:
 - ❖ form 101 „Statement regarding corporate income tax” is replaced with the form provided in Appendix 1 of this Order;
 - ❖ two new lines are introduced on form 100 „Statement regarding payment liabilities to the state budget”;
 - ❖ amendments and additions are brought to the filling instructions of the two forms;
- ❖ The provisions of the Order concerning 101 tax return are applicable starting the 2014 annual corporate income tax obligations.

Amendments and additions to certain regulations concerning value added tax (VAT)

Order no. 17/2015, published in the Official Gazette no. 16 of 9 January 2015

- ❖ The order sets-up the criteria of conditioning for VAT registration of entities subject to incorporation, requesting VAT registration, under certain conditions, as follows:
 - ❖ before starting to carry taxable operations if exceeding the RON 220,000 tax relief limit is estimated, or in case such exceeding is not estimated but there is an option to apply the normal taxation regime. The taxpayer is therefore required to submit, within the same day when registration with the Trade Registry is filed, a VAT registration form to the tax authorities as well (form 098);

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- ❖ when opting for the normal VAT taxation regime, even though the tax relief limit has not been exceeded throughout a calendar year; in this case the taxpayer must file the 010 form.
- ❖ upon request of a taxable person whose registration has been cancelled; in this case the person must file the VAT registration form 099.
- ❖ The criteria of conditioning the VAT registration of previously mentioned entities are among others:
 - ❖ the company is not in a situation in which it does not carry economic activities within its registered office and/or secondary offices, and neither in a situation in which it carries out economic activities outside such offices;
 - ❖ none of the administrators and/or associates of the company and the company itself has felonies mentioned in the tax offence record;
 - ❖ the intention and the capacity of the company to carry economic activities involving taxable operations results from an evaluation performed by the tax authorities. In this regard, the taxpayer must file an affidavit (form 088).
- ❖ Both 088 and 098 forms have been introduced by Order of the president of the National Agency for Tax Administration no 112/2015, published in the Official Gazette no 40 of 16 January 2015; 099 form has been introduced by Order of the president of the National Agency for Tax Administration no 18/2015, published in the Official Gazette no 32 of 15 January 2015.
- ❖ The provisions are applicable starting with 1 of February 2015.

Order no. 18/2015 , published in the Official Gazette no. 32 of 15 January 2015

- ❖ The Order approves, the VAT registration procedure upon demand of the taxpayers whose registration has been previously ex-officio cancelled.
- ❖ On **1 of February 2015** (when the present Order enters into force), the Order of the president of the National Agency for Tax Administration no 3330/2013 regarding the VAT

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registration procedure upon demand of the taxpayers whose registration

has been previously cancelled, is repealed.

Order no. 19/2015, published in the Official Gazette no. 19 of 12 January 2015

- ❖ The Order modifies and completes the Order of the president of the National Agency for Tax Administration no 3331/2013 with regard to the approval of the Procedure for ex-officio amendment of the VAT records, as well as the layout and content of certain forms.
- ❖ According to the changes brought to the Order, the ex-officio VAT registration of a taxpayer is considered valid **starting with the date when the decision regarding**

the ex-officio VAT registration is communicated.

- ❖ Among the changes brought by the present Order there are several aspects related to VAT registration/ex-officio cancellation of VAT registration.
- ❖ The provisions of the order are applicable starting with 1 of February 2015.

Central Fiscal Commission's Decision no 6/2014 regarding the amendment of the Central Fiscal Commission's Decision no 2/2011 regarding the assessment of output VAT for particular cases

Order no. 1820/2014 , published in the Official Gazette no. 20 of 12 January 2015

- ❖ The Order approves the Central Fiscal Commission's Decision no 6/2014 according to which the application of the gross-up mechanism for VAT assessment is extended for the case where price of a good/service has been established by the parties

without any mention regarding VAT, the supplier is liable for VAT payment, and the supplier is not able to recover such VAT from the beneficiary (this being proved including through an affidavit thereof).

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Revision of the taxation rate for special constructions

Law no 11/2015 for approving the Government Emergency Ordinance 102/2013, published in the Official Gazette no 24 of 13 January 2015

- ❖ The law amends the tax rate and the taxable base for the special construction tax;
- ❖ Starting with 2015, the tax rate has been reduced from 1.5% to 1%;
- ❖ The tax shall be applied to the value of the special constructions existing in the taxpayer's records as at 31 of December of the previous year to which additional deductions apply as follows:
 - ❖ the value of buildings from industrial, scientific and technological parks which are not exempt from building tax;
 - ❖ the value of constructions situated outside the Romanian borders, as established according to the law, including the borders located in the contiguo area of Romania and Romania's exclusive economic area;
 - ❖ the value of constructions located in the public domain of the state used for protocol purposes, as well as those pertaining to the public and private domain of the state, rented or granted for use to public institutions;
 - ❖ the value of constructions owned by sporting structures.

Modification of the Refund Procedure for a part of the additional excise tax

Decision no 15/2015, published in the Official Gazette no 43 of 19 January 2015

- ❖ The Decision modifies the Government Decision no 537/2014 regarding refund (as state aid) conditions, procedure and terms of the amounts representing the difference between the standard level of excises and the differentiated level of excise tax for diesel oil used as engine fuel.

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Extending the reduced 9% value added tax rate to "all inclusive" accommodation services

Decision no. 20/2015 was published in Official Gazette no. 46 of 20 January 2015

- ❖ The Decision amends paragraph (6), point 23 of Title VI "Value added tax" ("VAT") of the Methodological Norms for the application of the Fiscal Code.
- ❖ Under the new provision, the reduced 9% VAT rate will apply to all types of accommodation services in tourist structures with lodging functions as provided in art 2¹ from Government Ordinance no. 58/1998 regarding the organization and performance of touristic activities in Romania, approved by Law no. 755/2001 and subsequent amendments.
- ❖ Specifically, the reduced 9% VAT rate will apply for structures which supply:
 - accommodation with no breakfast included;
 - accommodation with breakfast included – a predefined mix of accommodation services and breakfast arrangements, sold or offered for sale at a total price;
 - half board accommodation - predefined mix of accommodation services and breakfast and lunch or dinner arrangements, sold or offered for sale at a total price;
 - full board accommodation - predefined mix of accommodation services and breakfast, lunch and dinner arrangements, sold or offered for sale at a total price;
 - "all inclusive" accommodation - predefined mix of accommodation services and arrangements for breakfast, lunch, dinner, snacks between meals and any other tourism leisure services offered by own tourist accomodating structure, sold or offered for sale at a total price.

The Decision of the Constitutional Court regarding the conditioning of registering the property right in the Real Estate Registry of the payment of the tax

Decision no 662/2014, published in the Official Gazette no 47 of 20 January 2015

- ❖ By means of Decision no 662/2014, the Constitutional Court allows the unconstitutionality exception of the provisions in art 77¹, paragraph (6) from the Fiscal Code regarding the conditioning of registering the property right of a real estate of proof of paying the income tax;
- ❖ Thus, the Court holds that the legal provisions mentioned previously are constitutional in the sense that the law does not coerce the contractor buyer to prove that the income tax owed by the debtor was paid in order to register his property right in the Real Estate Registry.

Carrying forward the untaken annual leave

Law no 12/2015, published in the Official Gazette no 52 of 22 January 2015

- ❖ The law brings a number of changes to the Labour Code regarding salaries of temporary employees, duration of annual leave, money compensation of annual leave not taken.
- ❖ Also, starting the date when the law entered into force, periods of temporary disability, maternity leave, maternity risk and sick child care are taken into consideration for the purposes of determining the duration of annual leave;
- ❖ Likewise, according to the new amendments of the Labour Code, if the employee, on justified grounds, cannot benefit from its annual leave (wholly or partially) the employer (upon receiving the employee's consent) must grant the annual leave not taken within an 18-month period starting the year following the year

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when the annual leave was not taken
(previously 12 months);

The approval of the Application Norms for Law no 142/1998 regarding meal tickets

Decision no 23/2015, published in the Official Gazette no 54 of 22 January 2015

- ❖ The decision approves the application norms for Law no 142/1998 regarding granting meal tickets, repealing the Government Decision no 5/1999 with regard to approval of the application norms for Law no 142/1998.

Amendment of the daily allowance for the personnel of public authorities and institutions

Order no 60/2015, published in the Official Gazette no 68 of 27 January 2015

- ❖ According to the Order, the quantum of the daily allowance is increased from 13 RON to 17 RON, while the amount representing the compensation of accommodation expenses for the delegated personnel (if the personnel is not accommodated in places designated for tourist purposes) is increased from 30 RON to 45 RON.

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Preparation and submission of annual financial statements and accounting reports for year 2014

Order no 65/2015, published in the Official Gazette no 69 of 27 January 2015

- ❖ Order no 65/2015 approves the rules regarding submission of financial statements and accounting reports corresponding to 2014 financial year;
- ❖ Alongside the specific regulations for the end of the financial year, the order stipulates a set of rules regarding the registration of the possible value losses of green certificates whose trading is delayed according to the provisions of Law no 220/2008 for setting the promotion system for production of renewable energy;
- ❖ The deadline for submission of the annual financial statements and accounting reports remains of 150 days since the end of the financial year, respectively since the end of the calendar year for accounting reports;

Amendments and completion of the Fiscal Code

Ordinance no 4/2015, published in the Official Gazette no 74 of 28 January 2015

Value Added Tax

- ❖ In order to accommodate the effects of the erroneously abolishment of art. 151 of the Fiscal Code through Emergency Ordinance no 92/2014, the present Ordinance modifies all provisions of the Fiscal Code that currently refer to art 151 „The person liable for paying tax on intra-community acquisitions”, in the sense that those provisions have been replaced with the newly introduced article 151¹ „The person liable for paying tax on intra-community acquisitions” which entails the same provisions.

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Personal income tax

- ❖ In order to ensure an unbiased treatment, the Ordinance introduces new tax-exempt categories of income earned by persons with severe disabilities as follows: income from independent activities and agriculture forestry, pisciculture; salary income and/or pensions are considered as tax exempt as well (previously they was considered as non-taxable);
- ❖ Likewise, the Ordinance replaces the phrase „non-taxable incomes” used for all sorts of income previously mentioned made by disabled persons with the phrase „exempt incomes”

Social security contributions

- ❖ The Ordinance also clarifies the categories of individuals exempted from paying social health security contributions, as provided by Law 95/2006 regarding reform in the health sector (such as: children to the age of 18, young people to the age of 26 who come from child protection system, husband, wife and parents without any own income dependents of an insured person).

Simplified customs procedures

Order no 163/2015, published in the Official Gazette no 74 of 28 January 2015

- ❖ The Order approves the guidelines with regard to the simplified customs procedures, thus coordinating the internal legislation with (EEC) Council Regulation no 2913/92 of 12 October 1992 for establishing the Community Customs Code and with the provisions of title IX from (EEC) Regulation no 2454/93 laying down provisions for implementing Statute no 2913/92;
- ❖ The provisions of the Order are applicable starting with 12 of February 2015 and abolish the Order of the Vice-president of the National Agency of Fiscal Administration no 5465/2007.

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Consumer Price Index

Order no 83/2015, published in the Official Gazette no 76 of 29 January 2015

- ❖ The consumer price index used for calculation of the prepayments made for the account of the annual corporate income tax for 2015 fiscal year is 102.2%

Amendments of certain terms regarding the legal status of minor offences

Ordinance no 5/2015, published in the Official Gazette no 78 of January 29th 2015

- ❖ According to the Ordinance, the deadline for communication of the minutes of the contravention is extended. Previously, if the minutes were not communicated within one month from the application of the sanction, the sanction was prescribed. Currently, the minutes can be communicated within two months, without prescribing the sanctions.

Fiscal receipts lottery

Ordinance no 10/2015, published in the Official Gazette no 81 of 30 January 2015

- ❖ The fiscal receipts lottery consists of randomly extracting numbers in order to grant cash prizes to individuals (both resident and non-resident) and who possess fiscal receipts that testify the purchase of goods or services on Romanian territory;
- ❖ The Ordinance stipulates that the Fiscal Receipts Lottery shall be held monthly, as well as on occasion (for instance, on legal holidays) and the random extraction of numbers shall be performed as follows:

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- ❖ a number between 1 and 999 inclusive, representing the total amount of the fiscal receipt without the national currency's subdivisions, including VAT. The number which represents the value of the fiscal receipt results from successively extracting three series of numbers, between 0 and 9;
- ❖ a number representing the day (of the month or period) of issuing the fiscal receipt.
- ❖ The Ordinance stipulates that for the monthly drawing of numbers only fiscal receipts issued on the previous calendar month are allowed to participate;
- ❖ The drawing is held on the first Sunday after the 15 of every month for the previous month and the claiming of the prizes must be done within maximum 30 days from the date of the drawing; the payment of the prize is to be done by the Ministry of Public Finance in 60 days from the moment the deadline for claiming the prize expires;
- ❖ Prize claim is made by submitting the original fiscal receipt in any unit of National Agency for Fiscal Administration, along with a copy of identity card/passport and a request whose content model will be approved through Order of the Minister of Public Finances until 30 March 2015;
- ❖ Also, the Ordinance stipulates that in case economic operators refuse to issue and to hand in the fiscal receipt to the customer, except for the cases in which the electronic cash registers do not work and the economic operators issue vouchers, the customer is entitled to benefit by the goods he has purchased or the services rendered to him without paying their equivalent value.
- ❖ Additionally, through Order no 106/2015 of the Minister of Public Finance was established that the first drawing will be held on the 13 of April 2015, the award fund being RON 1,000,000.