

January 2017

### Amendments to the Fiscal Code

*Government Emergency Ordinance no. 3/2017 published in the Official Gazette no. 16 of 6 January 2017*

- ❖ This Emergency Ordinance amends and supplements Law no. 227/2015 regarding the Fiscal Code, as follows:
- ❖ Taxpayers carrying out exclusively innovation, research and development and related activities are exempted from corporate income tax in the first 10 years of their activity whereas taxpayers who are already registered, on a 10 years period from the date of entry into force of this Emergency Ordinance.
- ❖ The Ordinance provides the modification of one of the conditions that has to be fulfilled by Romanian legal entities in order to qualify as microenterprises, i.e. the increase to 500.000 Euro of the cap on revenues obtained until 31 December of the previous fiscal year.
- ❖ For 2017, the Romanian corporate income tax payers that at 31 December 2016 meet the criteria to be considered microenterprise tax payers have to pay, as of 1 February 2017, the tax on the income derived and, in this respect, they have to notify the relevant tax authorities on the modification of their taxation system, until 25 February 2017. Within this latter deadline, said taxpayers have to submit the corporate income tax return for the taxable income obtained during 1 - 31 January 2017.
- ❖ The income tax rate on the income derived by microenterprise tax payers is 1% for those that have one or more employees.
- ❖ Starting with the revenues obtained in February 2017, individuals are exempt from the income tax on salaries or salary related income obtained from activities carried out, based on an individual employment contract concluded for 12 months, with Romanian legal entities carrying out seasonal activities provided by law.
- ❖ Starting with the revenues obtained in February 2017, medical services provided in the form of subscriptions, incurred by employees, are deductible for income tax purposes if these amounts, together with

## TAX HOT TOPICS

the voluntary health insurance premiums do not exceed, on an annual basis, the equivalent in RON of EUR 400.

- ❖ For transactions concluded starting with 1 February 2017, when transferring, by inter vivos legal acts, the ownership right and its dependent parts over constructions of any kind and related land, as well as over plots of land of any kind without constructions, taxpayers are liable to pay an income tax computed by applying 3% on the taxable income established by deducting the non-taxable amount of RON 450,000 of the transaction value.

- ❖ The following amendments brought by Emergency Ordinance no. 3/2017 are applicable starting with the revenues obtained in February 2017.

### **Social security contributions**

- ❖ The cap of 5 average gross salaries for the computation of social security contributions due for individuals obtaining salary income or salary related income has been removed. The removal of the cap is valid for the contribution due by the individual, as well as for the one due by the employer.
- ❖ According to the current legal provisions, the cap of 5 average gross salaries under which the social security contribution is

computed is maintained for the other categories of income, obtained by individuals for which the 5 average gross salary cap was applicable even before this entry into force of Emergency Ordinance.

### **Social health security contributions**

- ❖ The cap of 5 average gross salaries, for the computation of the social health security contribution is due on salary income or salary related income as well as on income from investments/other sources, has been removed.
- ❖ According to the current legal provisions, the cap of 5 average gross salaries under which the social health security contribution is computed is maintained for the other categories of income, obtained by individuals, to whom the 5 average gross salary cap was applicable even before the entry into force of this Emergency Ordinance.
- ❖ The social health security contribution shall not be due on income derived from investments and/or other sources provided the individual obtains income that is already subject to the social health security contribution (e.g. salary income and salary related income, income from pensions, unemployment benefits, income from independent activities etc.).

## TAX HOT TOPICS

---

- ❖ In case of individuals who, during the fiscal year, derive income exclusively from investment and/or other sources, no social health security contribution shall be due if

the monthly taxable basis is below the minimum gross base salary.

### **Elimination of some taxes and fees, as well as the amendment and completion of legislation**

*Law no. 1/2017 published in the Official Gazette no. 15 of 6 January 2017*

- ❖ Starting 1 February 2017 certain taxes and fees, such as the ones for the issuances of some documents (e.g. passport issuance, request for issuance of the identity card), for the granting or regaining the Romanian citizenship, authentications, document

procurements, issuance of the criminal record and the fiscal record certificates, some notary services etc., judicial stamp duties, the radio-television tax and the environmental stamp duty have been eliminated.

### **Establishment of the minimum gross salary guaranteed per country**

*The Government Decision no. 1/2017 published in the Official Gazette no. 15 of 6 January 2017*

- ❖ Starting 1 January 2017, the guaranteed minimum gross salary, amount set in cash, without including bonuses and other additions, is established at RON 1,450 per month.

- ❖ Setting the gross salary under the minimum gross salary level is considered contravention and is sanctioned with a fine between RON 300 and RON 2,000 for each individual employment contract that does not respect this minimum level.

### **Qualification of an activity as a software development activity**

*Order of the president of the National Agency for Fiscal Administration no. 872/5.932/2.284/2.903/2016 published in the Official Gazette no. 20 of 9 January 2017*

- ❖ The Order establishes the granting procedure for the tax exemption on the salary income of employees of economic operators carrying out their

activity in Romania, under the law and whose object of activity include software creation. The Order repeals Orders no.

## TAX HOT TOPICS

---

217/4.172/1.348/835/2015 on the software creation activity.

- ❖ The main amendment consists in the elimination of the condition that the employer should have obtained, in the previous year, income from software development activities of USD 10,000.
- ❖ Regarding the condition for the employer to have realised in the previous fiscal year income from software creation activities, new clarifications are brought regarding legal entities that are established during the fiscal year or the ones that have been subject to a reorganisation during the year.
- ❖ As regards the justifying documents required for the application of the income tax exemption on salary income and salary related income, once the Order comes into force, these will no longer be necessary in

certified copy, but in copy mentioning that is „according to the original”.

- ❖ Amendments are also brought to the definition of the software creation activity.
- ❖ Also, for simplification of the relevant procedures, the employer will be able to keep the documents in an electronic format provided they are signed with an extended electronic signature based on a qualified certificate, issued by an accredited service provider.
- ❖ The provisions of this Order are applicable starting with the salary income and salary related income obtained from software creation activities for February 2017.

### **Removal of the obligation for submitting (088) form**

*Order of the president of the National Agency for Fiscal Administration no. 210/2017 published in the Official Gazette no. 40 of 13 January 2017*

- ❖ The Order eliminates the obligation to submit form (088) - "Affidavit for assessing the intention and capacity to perform economic activities which involve operations in the field of VAT".
- ❖ The Order amends the Order of the president of the National Agency for Fiscal Administration no. 3.698/2015 regarding the approval of the tax registration forms of the taxpayers and of the categories of fiscal obligations that form the fiscal vector and repeals Order of

## TAX HOT TOPICS

---

the president of the National Agency for Fiscal Administration no. 3.841/2015 regarding the approval of the model and content of (088) form - "Affidavit for assessing the intention and capacity to

perform economic activities which involve operations in the field of VAT".

- ❖ The Order enters into force at 1 February 2017.

\* \* \*

*For details you can contact any member of TaxHouse team or you can send us a message at the email address [office@taxhouse.ro](mailto:office@taxhouse.ro).*