

TAX HOT TOPICS

Tax incentives for individual investors (business angels)

Law no. 120/2015 regarding the inducement for individual investors – business angels, published in the Official Gazette no. 382 of 2 June 2015

- ❖ The Law stipulates the conditions under which, starting 12 July 2015, the individuals, referred to as *individual investors-business angels*, can benefit from certain tax incentives as a result of acquiring participation titles in microenterprises and small enterprises. According to the law, such companies should cumulatively fulfil the following conditions:
 - ❖ are incorporated as limited liability companies;
 - ❖ are independent companies;
 - ❖ are not in default or in insolvency or bankruptcy proceedings and the arrangement with creditors or liquidation procedure have not been opened.
- ❖ According to the new provisions, the tax incentives provided by the law cannot be granted to individuals investing in companies which perform activities in certain fields (e.g. banking, insurance and reinsurance, real estate, gambling and betting, consultancy in any field etc.).
- ❖ In addition, the law provides the conditions which should be fulfilled by the individuals in order to benefit from the tax incentives, e.g. investment of an amount between EUR 3,000 and 200,000 in order to acquire participation titles, ownership of maximum 49% in the company's share capital.
- ❖ As regards the tax incentives which are granted, the law provides that the individual investor is exempt from (i) dividend tax for a period of 3 years since the acquisition of participation titles and (ii) capital gains tax upon exit, in case such transaction takes place after at least 3 years since the acquisition of participation titles, to the extent that the ownership of the participation titles is maintained for a period of at least 3 years.

Register of evidence for day labourers

Order no. 831/600/2015 for the approval of Methodological Norms for the application of Law no. 52/2011 regarding occasional activities performed by day labourers, published in the Official Gazette no. 385 of 3 June 2015

- ❖ The Order approves the methodological norms for the application of Law no. 52/2011 regarding the occasional activities performed by day labourers.
- ❖ Thus, the Order defines certain terms, e.g. work accident, work equipment, individual protection equipment, workplace, security and health in work, accident which produces temporary work disability, accident which produces disablement, deadly accident, collective accident, accident outside work, work tasks.
- ❖ In addition, the Order provides that the investigation of events (e.g. having the nature of work accidents) will be finalised within 15 days by preparation of a file containing certain documents, such as: investigation minute, acknowledgment note on the scene, sketches and photos regarding the event, statements of the witnesses and injured people etc.

Amendments regarding certain forms used in the customs activity

Order of the president of the National Agency for Fiscal Administration no. 841/2015 for the approval of the form, content and technical norms for the application and filling of specific forms used in customs activity, published in the Official Gazette no. 390 of 4 June 2015

- ❖ The Order approves the form, content and norms for application and filling of several forms used in the customs activity, both by customs employees (*i.e. Register of customs documents prepared in the manual procedure, Register of incoming goods and register of outgoing goods, Register of customs seals, Field book-*

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register, Register of withheld amounts, Register of goods seized from travellers, Registers of goods which became state property, Register of service orders, Register of telephone notes, Register of brief body inspection, Register of service handover), and forms used by individuals

and legal entities (i.e. Statement of on board supplies, Customs statement for travellers, Loading/unloading customs permit, Customs permit for transfer).

- ❖ The Order also provides transitory rules regarding the previous legislation.

Amendments regarding the taxation of gambling income

Law no. 124/2015 regarding the approval of the Government Emergency Ordinance no. 92/2014 for the regulation of certain fiscal-budgetary measures and amendment of certain normative acts, published in the Official Gazette no. 407 of 9 June 2015

- ❖ The new provisions clarify the meaning of certain terms (e.g. mean of gambling, specialised locations for gambling activities, slot-machines games etc.).
- ❖ In addition, the law regulates the annual contributions due by licensed gambling games organizers towards the Fund for Prevention of Gambling Addiction, as well as the procedure of obtaining and issuance of the license for organisation of gambling games.
- ❖ The law amends the taxation grid for gambling income, subject to withholding tax, for each payment, as follows:
 - ❖ **1%** for income up to RON 66,750, inclusively;
 - ❖ **RON 667.5 + 16%** for the amount exceeding RON 66,750, for income between RON 66,750 and RON 445,000, inclusively;
 - ❖ **RON 61,187.5 + 25%** for the amount exceeding RON 445,000, for the income exceeding RON 445,000.

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- ❖ According to the new provisions, the income derived from casino gambling games, poker clubs, slot machines and scratch cards, which is below the non-taxable threshold of RON 66,750, inclusively, obtained for each gross income received, are not subject to tax.
- ❖ The same taxation grid is applicable to income derived by individuals as a result of their participation to remote gambling games and poker festivals. In this case, the tax authority computes the annual tax due for the income derived from the aforementioned gambling games and issues the tax decision based on the statement submitted by the taxpayer with respect to the income obtained.
- ❖ For this type of income, each organiser/income payer has the obligation to provide on an annual basis to each taxpayer the information regarding each gross income received during the fiscal year and to submit with the tax authorities an informative statement regarding each gross income, for each taxpayer, until the last day of February of the year following the reporting period.
- ❖ Moreover, the Law sets the special tax for video lottery at 3%, applied to the gambling income derived by the licensed operator.
- ❖ The Law also amends the access fees for casino gambling games (i.e. RON 50) and for poker clubs gambling games (i.e. RON 30).

Regulations regarding the economic-financial inspection activity

Order no. 668/2015 for the approval of Instructions concerning the fulfilment of measures set forth through mandatory disposition, evidence of inspection activities, reporting regarding the form under which the activity programs are realised and the results of the actions taken, published in the Official Gazette no. 424 of 15 June 2015

- ❖ The new provisions are applicable to the General Direction of economic-financial Inspection from the Ministry of Public Finances, as well as to the general directions of public finances and to the General Department for Large Taxpayers within the National Agency for Fiscal Administration.
- ❖ In this respect, the inspection team shall verify the fulfilment of the measures imposed by the mandatory provisions within 5 days after the deadline.
- ❖ Thus, the tax authorities shall perform an inspection at the level of the taxpayer in order to check the fulfilment of the measures imposed through mandatory provisions in the following cases:
 - ❖ in case the entity does not inform the economic and financial inspection body regarding the way under which the measures imposed through the mandatory provisions are fulfilled;
 - ❖ in the event that the entity informs the economic - financial inspection body that it did not fulfil the measures imposed through the mandatory provisions;
 - ❖ in case that within a 10-days term the entity does not provide clarifications regarding the fulfilment way of the measures and/or additional justifying documents supporting the fulfilment of the measures imposed through the mandatory provisions;
 - ❖ in case that, based on the supporting documents provided, it cannot be proved that the measures imposed through mandatory provisions have been completely fulfilled.

Law regarding the insolvency of natural persons

Law no. 151/2015 regarding the insolvency procedure for individuals, published in the Official Gazette no. 464 of 26 June 2015

- ❖ An individual debtor is considered insolvent when his/her patrimony is characterised by insufficient cash funds available for payment of the debts, as they become due. The individual's insolvency is presumed to be applicable by law in case that, after a period of 90 days since the due date, the individual did not pay his/her debts towards one or more creditors.
- ❖ The Law provides three procedures for the settlement of the individual's insolvency:
 - ❖ insolvency procedure based on a debt repayment schedule;
 - ❖ insolvency procedure based on liquidation of assets;
 - ❖ simplified insolvency procedure.
- ❖ The new provisions define certain specific terms (e.g. untraceable goods, insolvency, creditor related to the debtor etc.), the scope of the law and the responsible authorities in charge with its application.
- ❖ The Law enters into force within 6 months after its publication in the Official Gazette, with certain exceptions.

Assignment of workers from the Romanian territory

Emergency Ordinance no. 28/2015 for the amendment and completion of Law no. 344/2006 regarding the assignment of workers within provision of cross-border services, published in the Official Gazette no. 476 of 30 June 2015

- ❖ According to the new regulations, the provisions of Law no. 344/2006 shall also apply to companies established in Romania which, as a result of providing cross-border services, assign their employees (with which labour agreements are established) to a Member State of the EU, European Economic Area or to the Swiss Confederation.
- ❖ The Ordinance defines certain specific terms, e.g. employee assigned to/from Romania, minimum wage, expenses related to the assignment, assignment allowance.
- ❖ The Ordinance introduces a new provision according to which, the personnel of employers based in Romania, performing international transport services, which are assigned for a limited period of time on the territory of a Member State of the EU, of the European Economic Area or to the Swiss Confederation and who do not fall within the situations provided by Law no. 344/2006 (regarding the assignment of an employee or the provision of an employee by a temporary work agent), are subject to the provisions of Romanian Labour Code regarding delegation, being entitled to payment of accommodation and transport, as well as a delegation allowance, under the conditions provided by the law or by the applicable collective labour agreement.