

TAX HOT TOPICS

March 2015

Clarifications regarding the additional deduction for research and development expenses

Order no. 256/3,331/2015, published in the Official Gazette no. 178 of 16 March 2015

- ❖ The Order contains the Methodological Norms for applying the additional deduction for research and development (“R&D”) expenses provided by art. 19¹ of the Fiscal Code.
- ❖ The Order aligns the provisions of the Methodological Norms with the regulations of the Fiscal Code and, in addition, provides certain clarifications, including the following:
 - ❖ R&D activities can be performed through taxpayer’s own means or in collaboration, association or allocation agreement within the group in case the taxpayer receives full rights to use the results of the research;
 - ❖ R&D activities must be compatible with the Frascati Manual, published by OECD;
 - ❖ the results of the R&D activities can be valued for internal use (by applying the research results in the taxpayer’s own activities) or by selling the research results or exploiting the intellectual property rights resulted therein;
 - ❖ for determining the value of the tax incentive, taxpayers can request a certification/expertise regarding the fulfilment of the conditions required;
 - ❖ in case of research activities requested by command by a third party, the tax incentive is granted to the initiator of the request;
 - ❖ the new provisions update the list of eligible expenses taken into consideration for the additional R&D deduction;
 - ❖ in case the development expenses are capitalised, the tax deduction can be applied in the tax period during which the expenses are incurred, or when the expenses are recognised in the profit and loss account.

Amendments regarding the administration of large and medium taxpayers

Order no. 580/2015, published in the Official Gazette no. 153 of 3 March 2015

- ❖ The Order brings amendments with respect to the competence of the tax authorities in charge with tax enforcement procedure at the level of large and medium taxpayers.
- ❖ The tax enforcement procedure for the recovery of all tax liabilities, including tax on salary income due by large taxpayers and their subsidiaries, is performed as follows:
 - ❖ in case of large taxpayers, by the General Directorate for Administration of Large Taxpayers, through its own enforcement services;
 - ❖ in case of medium taxpayers, by the County Administration of Public
- Finances, through its collection structure for medium taxpayers, or the General Regional Directorate of Bucharest Public Finances, through the Tax Administration for medium taxpayers.
- ❖ According to the Order, the competence for the seizure and sale of movable/immovable properties may lie with the General Directorate for Administration of Large Taxpayers through its Regional Services of Enforcement (for large taxpayers), respectively, to the tax authorities in whose jurisdiction the property is located (for medium taxpayers).

Alternative procedure for declaration of import/export of goods

Order no. 614/2015, published in the Official Gazette no. 160 of 6 March 2015

- ❖ The Order approves the instructions for the use of the import/export customs declarations in case the alternative procedure is applied (i.e. in case the IT customs software used for declaring the import/export of goods is not working).
- ❖ According to the new provisions, the person performing the import/export of the goods or his representative is required to inform the customs office in writing regarding any import/export operation registered in the IT application, which did not receive approval for customs release, and for the finalisation of which the use of the alternative procedure is required.
- ❖ The Order enters into force in 15 days from its publication in the Official Gazette and repeals the provisions of art. 73-77 of the Order no. 1626/2009.

Regulations regarding the pharmaceutical industry

Order no. 194/2015, published in the Official Gazette no. 168 of 11 March 2015

- ❖ The Order approves the Norms for the evaluation and approval of human use drugs advertising.
- ❖ The Order introduces, inter alia, provisions regarding the report of sponsorships and other expenses incurred by drug manufacturers, distributors or drug marketing licence holders or their representatives, for the benefit of:
 - ❖ healthcare professionals;
 - ❖ professional organisations and patient organisations;
 - ❖ any other organisation carrying out activities regarding healthcare, medical or pharmaceutical assistance.
- ❖ The reporting responsibility lies also with the beneficiaries of the sponsorship activities.
- ❖ The sponsorships/expenses will be declared as follows:
 - ❖ for those incurred in 2014, the reporting is made until 30 June 2015;
 - ❖ starting with 2016, the reporting will be made until 31 March, for the sponsorships/expenses incurred in the previous year.

Emergency Ordinance no. 2/2015, published in the Official Gazette no. 176 of 13 March 2015

- ❖ The Emergency Ordinance amends the provisions of Emergency Ordinance no. 77/2011 for the establishment of claw-back tax and brings clarifications regarding the calculation of the claw-back tax.
- ❖ Based on the provisions of the Emergency Ordinance, the tax is calculated separately for drugs for which cost-volume/cost-volume-outcome contracts were signed.
- ❖ The claw-back tax is payable by the drug marketing licence holder, both Romanian legal persons and non-resident legal entities, through their legal representative.

Approval of certain tax forms

Order no. 632/2015, published in the Official Gazette no. 178 of 16 March 2015

- ❖ The Order approves the model and content of form (311) „Statement regarding output VAT due by taxable persons whose VAT registration number has been cancelled according to art. 153 para. (9) letter a)-e), letter g) or letter h) of the Fiscal Code” and repeals the previous Order no. 2224/2013 of the National Agency for Tax Administration for the approval of the model and content of form (311).
- ❖ The Order approves also the completion instructions for form (311) and extends the applicability to the taxpayers that apply the VAT cash accounting system.
- ❖ The form (311) should be submitted by 25th of the month following the one during which the VAT chargeability occurs, in case the VAT chargeability occurs during the period in which the taxable person does not have a valid VAT code.