

TAX HOT TOPICS

March 2016

Amendments brought to Law no. 227/2015 regarding the Fiscal Code

Emergency Ordinance no. 8/2016 published in the Official Gazette no. 225 of 25 March 2016

- ❖ The Ordinance introduces, among others, the extension of the deadline for submission of certain local taxes statements and payment, regulated by the Law no. 227/2015 regarding the Fiscal Code.
- ❖ Legal entities owning buildings as at 31 December 2015;
- ❖ Individuals and legal entities owning as at 31 December 2015 motor vehicles removed from traffic.

Submission deadline

- ❖ The deadline for submission of local taxes statements is extended from 31 March 2016 to **31 May 2016** for the following taxpayers:

- ❖ Individuals owning non-residential or mixed destination buildings as at 31 December 2015;

Payment deadline

- ❖ For 2016, the first term of payment for the buildings tax, land tax and motor vehicles tax is extended from 31 March 2016 to **30 June 2016**, with the possibility of benefiting from a tax allowance, if the case, if the entire amount due for 2016 is paid by 30 June 2016.

Amendments brought to the Methodological Norms for the application of the Law no. 227/2015 regarding the Fiscal Code

Decision no. 159/2016 published in the Official Gazette no. 208 of 21 March 2016

- ❖ This Decision brings amendments and completions to the following titles:
 - ❖ Title III „Microenterprise income tax”
 - ❖ Title IV „Income tax”
 - ❖ Title VII „Value added tax”
 - ❖ Title VIII „Excise duties and other special taxes”
- ❖ Title IX „Local taxes”
- ❖ Among the main amendments/completions brought by the normative act, we mention the following:
 - Microenterprise income tax
- ❖ Clarifications are brought with respect to the computation of microenterprise

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income tax in case the number of employees changes during a quarter.

Income tax

- ❖ Completions/amendments are brought with respect to the following:
 - ❖ valuation of the benefits representing personal use of the business patrimony goods;
 - ❖ free granting of food and hygiene materials to employees;

Value added tax

- ❖ In the value added tax field the normative act introduces, among others, the following amendments and clarifications:
 - ❖ completion of the examples regarding free of charge goods granted to individuals;
 - ❖ clarifications with respect to the date when the chargeable event occurs for rental, concession, lease of goods or grants paid for a certain period of real rights on immovable property;
 - ❖ introduction of the definition for multi-purpose vouchers and related transactions which do not fall within the VAT scope;
 - ❖ changes regarding the taxable persons who have the option for

taxation of the supply of immovable properties;

- ❖ clarifications regarding the obligations of the taxable persons whose VAT numbers were cancelled by the tax authorities;
- ❖ completions regarding the identification data of taxable persons that must be included on the invoice;
- ❖ introduction of an example concerning joint-ventures;
- ❖ clarifications are brought for the goods classified under the category of integrated circuits devices.

Excise duties and other special taxes

- ❖ This Decision brings completions with respect to the procedures for authorizations and reimbursements of excise duties.

Local taxes

- ❖ This Decision clarifies, among others, the tax rules applied for mixed destination buildings owned by individuals, where a fiscal domicile is registered, an economic activity is carried out and the surfaces used for residential and non-residential purpose cannot be separately distinguished.
- ❖ Also, additional completions and clarifications are introduced in respect of the land tax computation method.



Ratification of certain Double Taxation Treaties for the avoidance of double taxation and prevention of fiscal evasion

Law no. 28/2016 published in the Official Gazette no. 217 of 24 March 2016

❖ The present Law ratifies the Double Taxation Treaty between Romania and the Italian Republic for the avoidance of

double taxation with respect to income tax and prevention of fiscal evasion and the related additional Protocol, signed at Riga on 25 April 2015.

Law no. 27/2016 published in the Official Gazette no. 218 of 24 March 2016

❖ The present Law ratifies the Double Taxation Treaty between Romania and Norway for the avoidance of double

taxation and prevention of fiscal evasion with respect to income tax, signed at Oslo on 27 April 2015.

Law no. 29/2016 published in the Official Gazette no. 220 of 24 March 2016

❖ The present Law ratifies the Double Taxation Treaty between Romania and Bulgaria for the avoidance of double

taxation and prevention of fiscal evasion with respect income tax, signed at Craiova on 24 April 2015.

Law no. 26/2016 published in the Official Gazette no. 225 from 25 March 2016

❖ The present Law ratifies the Double Taxation Treaty between Romania and the Government of the United Arab Emirates

for the avoidance of double taxation and prevention of fiscal evasion with respect to income tax, signed at Dubai on 4 May 2015.

Approval/ amendments of the model and content of certain tax forms

Order no. 825/2016 published in the Official Gazette no. 165 of 4 March 2016

- ❖ The Order approves the model and content of the "Review decision" Form, along with the using and filling out instructions for this Form.
- ❖ This Form is the administrative act based on which the tax authorities can request a reverification of a certain period in accordance with art. 128 para. (1) of Law no. 207/2015 regarding the Fiscal Procedure Code, by the head of the tax inspection structure, following the appearance of additional information unknown to the tax inspectors at the time of the checks, which influence their results.
- ❖ At the date when this Order enters into force, the Order no. 863/2015 is repealed.

Order no. 223/2016 published in the Official Gazette no. 166 of 4 March 2016

- ❖ The present Order amends the Order of the Minister of Environment and Water no. 549/2006 for the approval of the model and content of the „Statement regarding the obligations to the Environment Fund” Form and the related filling and submission instructions.
- ❖ According to the present Order, the provisions regarding the obligation to stamp the Form before submission with the competent tax authorities, have been eliminated.

Order no. 950/2016 published in the Official Gazette no. 188 of 14 March 2016

- ❖ The Order amends the NAFA's President Order no. 52/2012 for the approval of the model and content of certain forms provided by Title III "Income tax" of the Law no. 571/2003 regarding the Fiscal Code, as subsequently amended and completed.
- ❖ Thus, the present Order amends the instructions for filling and submission of the Form 200 „Statement regarding the income obtained in Romania”, provided within Appendix no. 2.

Order no. 1.053/2016 published in the Official Gazette no. 209 of 22 March 2016

- ❖ The present Order amends the NAFA's President Order no. 587/2016 for the approval of the model and content of the forms used for declaring self-assessment taxes or withholding taxes.
- ❖ Thus, the Nomenclature of payment obligations to the State budget was updated with new payment obligations due by gambling organizers.

Approval procedure of the derogatory reporting regime

Order no. 889/2016 published in the Official Gazette no. 203 of 18 March 2016

- ❖ The present Order introduces the *Approval procedure of the derogatory reporting regime*.
- ❖ Also, the Order approves the model and content of the following tax forms:
 - ❖ Report regarding the settlement of the request for the application of the derogatory reporting regime;
 - ❖ Decision regarding the approval/denial of the request for the application of the derogatory reporting regime;
 - ❖ Notification regarding the cessation of the derogatory reporting regime.
- ❖ According to the new procedure, the submission of the tax statements (Forms 100, 101, 112, 120, 300) according to a derogatory reporting regime may be approved for periods larger than 12 months, without exceeding 3 consecutive years.
- ❖ At the moment when this Order enters into force, the NAFA's President Order no. 1.221/2009 regarding the Approval procedure of the derogatory reporting regime, published in the Official Gazette no. 415 from 17 June 2009, as amended and supplemented, is repealed.

Procedure regarding ex-officio assessment of taxes, duties and contributions falling under self-assessment or withholding tax regime

Order no. 962/2016 published in the Official Gazette no. 233 of 30 March 2016

- ❖ This Order approves the Procedure regarding ex-officio assessment of taxes and contributions falling under self-assessment or withholding tax regime.
- ❖ Also, the Order approves the model and content of the following tax forms:

- ❖ Report regarding the ex-officio assessment;
- ❖ 160 Ex-officio assessment decision for taxes, duties and contributions falling under the self-assessment or withholding tax regime;
- ❖ 161 Annulment decision of the ex-officio assessment decision;
- ❖ At the date the present Order enters into force, the NAFA's President Order no. 3.392/2011, as amended and supplemented, is repealed.

Approval of certain technical Norms regarding temporary storage of goods and registration of warehouses used in free zones

Order no. 839/2016 published in the Official Gazette no. 164 of 3 March 2016

- ❖ The present Order approves the technical Norms for authorizing warehouses and perimeters for temporary storage on the Romanian customs territory, as well as technical Norms for registering the warehouses used in free zones by the free zone control customs office.
- ❖ Also, this Order approves the model of the authorization request for warehouses or perimeters for temporary storage, as well as the model for the registration request of warehouses used in a free zone, along with related filling instructions.

Approval of certain normative acts in the field of excise products

Order no. 829/2016 published in the Official Gazette no. 179 of 10 March 2016

- ❖ The present Order approves the Norms regarding the access of economic operators to EMCS-RO control applications for the movements of excise products under suspension of excise duties and the electronic submission of the statements related to the acquisitions and supplies of excise products.
- ❖ Thus, the Norms establish the authorization Procedure of the access to EMCS-RO control applications, as well as the necessary documents for the economic operators in order to obtain the access to EMCS-RO control applications for the movements of excise products under suspension of excise duties and for the electronic submission of the related statements.

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Order no. 319/2016 published in the Official Gazette no. 203 of 18 March 2016

- ❖ The present Order approves the conditions for destruction in the warehouses of excise products not released for consumption.
- ❖ The normative act defines destruction by fortuitous causes or force majeure events and clarifies the situation when the excise products no longer meet trading conditions. Also, the Order provides the conditions according to which the destruction shall not be considered as released for consumption.

Order no. 412/2016 published in the Official Gazette no. 228 of 28 March 2016

- ❖ The present Order approves the level of the specific excise duty for cigarettes for the period between 1 April 2016 – 31 December 2016 at **RON 329.30/1.000 cigarettes.**

Completions with respect to special cases of enforcement and the related empowered structures

Order no. 952/2016 published in the Official Gazette no. 186 of 11 March 2016

- ❖ The present Order amends the NAFA's President Order no. 3.744/2015 for determination of special cases of enforcement and the structures empowered to carry out the precautionary measures, as well as the related enforcement proceedings.
- ❖ According to the new provisions, the Service for special cases of enforcement is not empowered to provide summons and issue bank garnishments, the central competent tax authority which manages the budgetary claims being responsible for the above actions.
- ❖ Also, new attributions of the Central competent tax authority and the Service for special cases of enforcement are introduced.

Amendments and completions brought to the Procedure for granting certain tax incentives

Order no. 378/2016 published in the Official Gazette no. 219 of 24 March 2016

- ❖ The present Order brings amendments and completions to the Procedure for applying the provisions of the Emergency Ordinance no. 44/2015 on granting tax incentives to claims administered by the central tax authority, approved by the Ministry of Finance Order no. 3.831/2015.
- ❖ The present Order expands the categories of ancillary tax payment liabilities which can be subject to tax incentives and the categories of ancillary tax payment liabilities related to principal tax payment liabilities included in the tax assessment decision issued further to a tax audit and communicated between 1 October - 21 October 2015.
- ❖ Also, the tax authority may cancel the penalties for late payments, as well as a quota of 54,2% on interest, related to principal tax liabilities due until 30 September 2015, inclusively, and specified in the tax assessment decisions, issued further to a tax audit, and communicated between 1 October 2015 and the date when the Emergency Ordinance no. 44/2015 entered into force, under certain conditions.
- ❖ In addition, a new article regarding the withdrawal of the notification/ request for the annulment of the ancillary tax liabilities has been introduced.

Acts issued by the Financial Supervisory Authority

Norm no. 15/2016 published in the Official Gazette no. 170 of 7 March 2016

- ❖ The Norm approves the Accounting regulations related to the annual financial statements applicable to the Insurance Guarantee Fund.
- ❖ The provisions of the present normative act are applicable starting with the preparation of the annual financial statements for the financial year 2015.

Instruction no. 1/2016 published in the Official Gazette no. 230 of 29 March 2016

- ❖ The present Instruction regulates the preparation and submission of the annual financial statement and the annual reporting for entities authorised, regulated and supervised by the Financial Supervisory Authority – Financial Instruments and Investments Sector.