

# TAX HOT TOPICS

October 2016

## **Approval of the Technical Norms on the uniform application of customs regulations in free zones**

*Order of the president of National Agency for Fiscal Administration no. 2759/2016 published in the Official Gazette no. 778 of 04 October 2016*

- ❖ The Order approves the Technical Norms on the uniform application of customs regulations in free zones.
- ❖ Upon entry into force, the Order repeals the Order of the Vice-President of NAFA no. 7394/2007 for the approval of the Technical Norms on the uniform application of customs regulations in free zones and free warehouses.
- ❖ Thus, according to the new rules, the provisions regarding the free warehouse and its authorisation are repealed and certain amendments are brought in respect of the activities exercised in free zones, the operational records and the functioning conditions of free zones.
- ❖ Moreover, the new Order provides in the Annex a model for the request to register warehouses used for storing goods in a free zone;

## **Amendments and completions of the Methodological Norms on mandatory information written on payment orders to the State Treasury through which individual taxpayers carry out payments to component budgets of the general consolidated State budget through a transitory account opened in the name of the Ministry of Public Finances and information contained in electronic payment message digitally transmitted by initiating credit institutions, approved by Order no. 1801/2011**

*Order of the Minister of Public Finances no. 2403/2016 published in the Official Gazette no. 793 of 07 October 2016*

- ❖ The Order introduces new provisions on the checks performed by the Minister of Public Finances on the account statements transmitted by credit institutions regarding the amounts paid by the taxpayers.
- ❖ Moreover, the Order provides the obligation for credit institutions to transmit electronic payment files and account statements prepared separately for each non-working day.

**TAXHOUSE**

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### Adoption of certain opinions

*Resolution of the Chamber of Deputies no. 97/2016 published in the Official Gazette no. 794 of 10 October 2016*

- ❖ The present Resolution acknowledges that the measures proposed in the Communication of the Commission towards the European Parliament and the Council regarding further measures to enhance transparency and the fight against tax evasion and tax avoidance can significantly contribute to prevent illicit schemes, and, by taking firm actions in these areas, would allow the EU to retain its position at the forefront of global tax good governance.
- ❖ Thus, the Chamber of Deputies supports, inter alia, the European Commission initiative to adopt a high risk list of third countries with strategic deficiencies in their anti-money laundering and counter-terrorism financing regimes, as well as to allow fiscal administrations to receive consolidated information on beneficial ownership.

*Resolution of the Chamber of Deputies no. 98/2016 published in the Official Gazette no. 794 of 10 October 2016*

- ❖ The present Resolution acknowledges that the Proposal for a Council Directive amending Directive 2011/16/EU as regards access of tax authorities to anti-money laundering information would enable tax authorities to consistently access anti-money-laundering information for
- the performance of their duties in monitoring the proper application by Financial Institutions of Directive Directive 2011/16/EU on Administrative Cooperation in the field of taxation.

### Approval of certain pre-typed forms for the assessment of the local taxes and fees by the local tax authorities

*Order of the Deputy Prime Minister, the Minister of Regional Development and Public Administration no. 2403/2016 published in the Official Gazette no. 793 of 07 October 2016*

- ❖ The Order approves certain pre-typed forms (form for the tax inspection report, decision on the reimbursement of amounts from the local budget, decision
- on the accessory tax obligations) for assessment of local taxes and fees by the local tax authorities as well as other revenues of local budgets.

### **Approval of the Procedure for declaring income from rental and leasing activities as well as for establishing the tax due by taxpayers who classify that income as revenues from independent activities**

*Order of the president of National Agency for Fiscal Administration no. 2902/2016 published in the Official Gazette no. 807 of 13 October 2016*

- ❖ The Order approves the Procedure available for individuals to report the income derived from rental and leasing activities, based on which the tax due by taxpayers obtaining income from more than 5 lease/sublease contracts at the end of a fiscal year and qualifying this income as income from independent activities starting with the following fiscal year is assessed.
- ❖ The Procedure provides that for determining the annual net income, all on-going lease/sublease contracts in the reporting year shall be taken into consideration, regardless of their number.
- ❖ Moreover, the procedure clarifies the method by which individuals should fulfil their obligations, including the obligation to fill-in the Fiscal record registry, to prepare and submit form 220 “Statement regarding the estimated income/ income norm” and form 200 “Statement regarding the income obtained from Romania”.
- ❖ The new Order repeals the Order of the president of NAFA no. 2333/2007 for the approval of the previously applicable Procedure.

### **The tax on specific activities**

*Law no. 170/2016 published in the Official Gazette no. 812 of 14 October 2016*

- ❖ The Law introduces a specific tax for Romanian legal entities that carry out activities corresponding to the following NACE codes: 5510 – “Hotels and similar accommodation”, 5520 – “Holiday and other short-stay accommodation”, 5530 – “Camping grounds, recreational vehicle parks and trailer parks”, 5590 – “Other accommodation”, 5610 – “Restaurants”, 5621 – “Event catering activities”, 5629 – “Other food service activities”, 5630 – “Beverage serving activities”;
- ❖ The provisions are applicable to Romanian legal entities which, as of 31 December of the previous year, have cumulatively met the following conditions:
  - ❖ had mentioned in their articles of association one of the activities corresponding to the previously provided NACE codes registered as main or secondary activity and
  - ❖ were not under liquidation, as defined by law.

- ❖ The Law provides in the Annexes the computation formula of the specific tax for taxpayers that have one of the activities corresponding to the aforementioned NACE codes registered as main or secondary activity.
- ❖ In addition, the Law establishes also the obligations, in respect of the specific tax, for newly incorporated taxpayers or taxpayers that cease to exist during a fiscal year and also for taxpayers that derive income from other activities and it also includes references on the obligation of taxpayers to notify the tax authorities on the application or the exit from the specific taxation system.

### **Amendments to the National Bank of Romania (NBR) Regulation no. 4/2014 regarding the reporting of statistical data and information to the National Bank of Romania**

*NBR Regulation no. 6/2016 published in the Official Gazette no. 814 of 14 October 2016*

- ❖ The Regulation revokes the obligation of resident taxpayers to report all operations in the category of balance of payments, the obligation of using certain specific forms of credit institutions for each payment/ receipt from/ towards non-residents of a value equal to or higher than 50,000 EUR, as well as the obligation to report to NBR transactions of resident legal entities through their foreign bank accounts.
- ❖ This Regulation brings amendments to the obligations of credit institutions to report to NBR data on the transactions carried out with non-residents.

### **Approval of Government Emergency Ordinance no. 44/2008 regarding the performance of economic activities carried out by self-employed persons (PFAs), individual enterprises and family enterprises**

*Law no. 182/2016 published in the Official Gazette no. 828 of 19 October 2016*

- ❖ The Law amends the definitions of economic activity, economic enterprise, self-employed persons and assigned patrimony and introduces the definition of professional office.
- ❖ Based on the new provisions, a self-employed person shall have a maximum of 5 classes of activities provided by the NACE code in their scope of activity, and shall hire a maximum of 3 persons with individual employment contract.
- ❖ In respect of individual enterprises, they shall have a maximum of 10 classes of activities provided by the NACE code in their scope of activity, and they shall hire a maximum of 8 persons with individual employment contract.

- ❖ The Law provides for a 2 years term from its entry into force for self-employed persons and individual enterprises which carry out more classes of activities than provided by the law (i.e. registered sole traders - 5 classes of activities; individual enterprises - 10 classes of activities) to request

the amendment of their object of activity with the relevant Trade Registry Office.

### **Amendment and completion of the Order of the National Bank of Romania no. 27/2010 for the approval of the Accounting Regulations according to IFRS, applicable to credit institutions and of the Order of the National Bank of Romania 6/2015 for the approval of the Accounting Regulations according to European directives**

*Order of NBR no. 7/2016 published in the Official Gazette no. 832 of 20 October 2016*

- ❖ The Order introduces the requirement for public interest entities that exceed the criterion of having an average number of 500 employees and for those that are parent companies to include in the directors' report a non-financial statement, respectively a non-financial consolidated statement, which shall include certain information necessary for understanding the development, performance and position of the entity/group.
- ❖ The accounting regulations in accordance with the International Financial Reporting Standards, applicable to credit institutions transpose also the provisions of Directive 2014/95/EU of the European Parliament and of the Council of 22 October 2014 amending Directive 2013/34/EU as regards disclosure of non-financial and diversity information by certain large undertakings and groups.

### **Measures in the area of enrolling some categories of individuals in the public pension system**

*Law no. 186/2016 published in the Official Gazette no. 842 of 24 October 2016*

- ❖ The Law regulates the possibility for individuals who are not retired to complete their contributory period in the public pension system, by retroactive payment of the social security contribution.
- ❖ The Law also regulates the social security coverage contract, the period for which the contribution can be paid and the payment terms of the contribution.
- ❖ The social security contribution due shall be computed by applying the quota corresponding to normal labor conditions on a monthly calculation basis (which cannot be lower than the value of a minimum gross salary, nor higher than the value of five times the average gross salary).

**Approval of the Procedure to receive refund requests for the VAT related to imports and purchases of goods/services, made in another EU member state by taxable persons established in Romania**

*Order of the president of the National Agency for Fiscal Administration no. 2810/2016 published in the Official Gazette no. 844 of 25 October 2016*

- ❖ The Order approves the following:
  - ❖ the procedure to receive refund requests for the VAT related to imports and purchases of goods/services, made in another EU member state by taxable persons established in Romania;
  - ❖ the model, content and the instructions to prepare form (318) “VAT reimbursement request for taxable persons established in Romania, submitted as per art. 302 para. (2) from the Fiscal Code“;
  - ❖ the model, content and the instructions to prepare form (319) “Statement to adjust the pro-rata, as per the provisions of art. 302 par. (2) from the Tax Code and of pt. 73 par. (8) from the methodological norms.
- ❖ The present Order repeals the Order of the president of NAFA no. 3/2010 for the approval of the previously applicable Procedure.

**Approval of the Procedure to declare and establish the social health insurance contribution due by individuals without income or other categories of persons provided under art. 180 from the Fiscal Code, as well as for the approval of certain forms**

*Order of the president of National Agency for Fiscal Administration no. 2731/2016 published in the Official Gazette no. 845 of 25 October 2016*

- ❖ The Order approves the following:
  - ❖ the Procedure to declare and assess the social health insurance contribution due by individuals without income or by individuals obtaining monthly revenues exclusively from investments and/or other sources under the level of the minimum gross salary;
  - ❖ the model and content of the form Statement for establishing the payment obligations representing social health insurance contributions and Request to cease the payment obligations representing social health insurance contribution due by such individuals;
  - ❖ the model and content of the forms used by the competent tax authority to assess the social health insurance contribution due by individuals falling under the provisions of art. 180 of the Fiscal Code.

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**Types of fiscal receivables that may be paid by credit card using online banking systems in the National Electronic Payment System**

*Order of the Minister of Public Finances no. 2435/2016 published in the Official Gazette no. 850 of 26 October 2016*

- ❖ The Order supplements the Annex to the Order of the Minister of Public Finances no. 1376/2016 regarding the types of fiscal debts that may be paid by credit card using online banking systems in the National Electronic Payment System.
- ❖ In this respect, the Annex provides two new positions, as follows: 03.01.18 regarding the tax on income derived from real estate transfer from personal patrimony and position 21.05.24 representing regularisations.

**Approval of the Procedure for the registration, ex-officio or at the request of another authority which administers fiscal debts, of a subject of tax law that had not fulfilled its tax registration obligation, provided by law**

*Order of the president of National Agency for Fiscal Administration no. 2921/2016 published in the Official Gazette no. 850 of 26 October 2016*

- ❖ The Order approves the Procedure for the registration, ex-officio or at the request of another authority which administers fiscal debts, of a subject of tax law that had not fulfilled its tax registration obligation, provided by law and the model and content of the Decision and the Notification on the tax registration.
- ❖ The Procedure is applicable to individuals (with few exceptions), legal persons and entities without legal personality which have the obligation to submit the tax registration statement, as per law, as well as to the secondary offices that have the obligation to register as taxpayers for the income tax on salaries.
- ❖ The present Order repeals the Order of the president of NAFA no. 714/2016 for the approval of the previously applicable Procedure.

**Procedure for registering the contracts/documents concluded between Romanian legal persons, resident natural persons, as well as foreign legal persons who operate in Romania through a permanent establishment/ assigned permanent establishment (“PE”) and foreign legal persons or non-resident individuals**

*Order of the president of National Agency for Fiscal Administration no. 2994/2016 published in the Official Gazette no. 854 of 27 October 2016*

- ❖ The Order approves the new Procedure for fulfilling the obligation of Romanian legal persons, non-resident individuals as well as foreign legal entities carrying out activities in Romania through a PE/assigned PE to register, with the relevant tax authority, the contracts/documents concluded with foreign legal persons or non-resident natural persons who perform, on the territory of Romania, services such as construction works, fitting works, supervision, consulting, technical assistance and any other types of services provided in Romania, that give rise to taxable income.
- ❖ Also, the Order approves the model of form 017 “Declaration of registration of the contracts/documents that justify the actual services provided on the territory of Romania, in initial/additional form (related), concluded with foreign legal persons or non-resident individuals“ and includes instructions for its submission.
- ❖ If changes occur to the initially declared data, a new declaration must be submitted within 15 days from their occurrence.
- ❖ The Order repeals the Order of the president of NAFA no. 1400/2012 on the previously applicable Procedure.

**Empowerment of persons within financial economic inspection mechanism to determine contraventions and to apply penalties provided by Government Emergency Ordinance no. 77/1999 on certain measures to prevent payment default**

*Order of the Minister of Public Finances no. 2433/2016 published in the Official Gazette no. 860 of 28 October 2016*

- ❖ The Order empowers the persons within the financial economic inspection apparatus to assess contraventions and to apply the penalties provided by Government Emergency Ordinance no. 77/1999 on certain measures to prevent payment default.



**Approval of the Instructions to complete the electronic Administrative Document (e-AD), using the application EMCS-RO-Control of the movements of excisable products under excise duty suspension/exemption/exception**

*Order of the president of National Agency for Fiscal Administration no. 2901/2016 published in the Official Gazette no. 861 of 28 October 2016*

- ❖ The Order approves the Instructions to complete the electronic Administrative Document (e-AD), using the application EMCS-RO-Control of the movements of excisable products under excise duty suspension/exemption/exception.
- ❖ The Order repeals the Order of the president of NAFA no. 1136/2014 for the approval of the previously applicable Instructions.

**Approval of the Procedure to settle the VAT refund requests addressed by taxable persons who are not established in Romania, but in another EU member state**

*Order of the president of National Agency for Fiscal Administration no. 2809/2016 published in the Official Gazette no. 861 of 28 October 2016*

- ❖ The Order approves the new Procedure to settle the VAT refund requests addressed by taxable persons who are not established in Romania, but are established in another EU member state.
- ❖ Also, the Order approves the model and content of the following forms:
  - ❖ “VAT refund decision for taxable persons who are not established in Romania, but are established in another EU member state“;
- ❖ “Decision for establishing the differences of value added tax reimbursed under the conditions of art. 302 par. (1) let. a) from the Fiscal Code“.
- ❖ The Order is applicable for VAT refund requests submitted starting with the entry into force of this Order while the settlement of the VAT refund requests submitted before the entry into force of this Order, it shall be performed based on the procedure in force at their submission date.

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