

TAX HOT TOPICS

January – February 2016

Government Decision no. 1/2016 on the approval of the Methodological Norms regarding the Law no. 227/2015 regarding the Fiscal Code

Decision no. 1/2016 published in the Official Gazette no. 22 of January 13, 2016

❖ The Decision approves the methodological norms of Law no. 227/2015 regarding the Fiscal Code and replaces the Government Decision no. 44/2004 for the approval of the Methodological Norms regarding Law no. 571/2003 regarding the Fiscal Code, as well as the Government Decision no. 314/2007 regarding the labeling and coloring of energy products, as well as extension of the term regarding the labeling of energy products

provided by the Government Decision no. 1.861/2006.

❖ The new Methodological Norms regarding the Fiscal Code follow the structure implemented by the new Fiscal Code and bring amendments and additional clarifications (e.g. new provisions regarding independent activities, new details regarding transfer pricing rules, local taxes, etc).

Order no. 3.769/2015 of the President of National Agency for Fiscal Administration regarding the approval of the informative statement regarding deliveries / supplies and acquisitions performed on national territory by persons registered for VAT purposes

Order no. 3.769/2015 published in the Official Gazette no. 11 of January 7, 2016

❖ The Order approves the model and content of form (394) „Informative statement regarding deliveries/supplies and acquisitions performed on national territory by persons registered for VAT purposes” and introduces a number of changes to the current model and content of form 394.

❖ The provisions of Order no. 3.596/2011 regarding the declaration of deliveries/supplies and acquisitions performed on the national territory by persons registered for VAT purposes are abrogated.

❖ The Order has been amended by Order no. 1105/2016, published in the Official Gazette no. 242/01.04.2016.

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Order no. 3.840/2015 of the President of National Agency for Fiscal Administration regarding the establishment of the registration criteria for VAT purposes

Order no. 3.840/2015 published in the Official Gazette no. 5 of 6 January 2016

❖ The Order establishes the registration criteria for VAT purposes.

❖ Order of the President of National Agency For Fiscal Administration no. 17/2015 is repealed.

Order no. 3.841/2015 of the President of National Agency for Fiscal Administration regarding the approval of the model and content of the form (088) „Statement on own responsibility concerning the evaluation of the intention and capacity to perform economic activities which involve operations in the field of VAT”

Order no. 3.841/2015 published in the Official Gazette no. 8 of 6 January 2016

❖ The Order approves the model and content of the form (088) „Statement on own responsibility concerning the evaluation of the intention and capacity to perform economic

activities which involve operations in the field of VAT”.

❖ Order of the President of the National Agency For Fiscal Administration no. 1.966/2015 is repealed.

Order no. 3.846/2015 of the President of National Agency for Fiscal Administration regarding the approval of procedures regarding the application of art. 92 of the Fiscal Procedure Code and the approval of the model and the content of certain forms

Order no. 3.846/2015 published in the Official Gazette no. 14 of 8 January 2016

Order of the President of National Agency for Fiscal Administration no. 1.847 / 2014 is repealed.

The present Order approves:

❖ The procedure for declaring as inactive of the taxpayers/payers, according to art. 92 para. (1) of the Fiscal Procedure Code;

❖ The procedure of reactivating the taxpayers/payers declared inactive;

❖ The procedure for correcting material errors;

❖ The procedure for removing from record of taxpayers/payers declared inactive taxpayers/payers radiated.



The present Order approves the model and content of the following forms:

- ❖ Decision for declaration of the inactivity status;
- ❖ Decision for reactivation;
- ❖ Decision for correcting of material errors;
- ❖ Decision for rejecting a reactivation/material error correction request;
- ❖ Notification regarding the fulfillment of the conditions for declaring as inactive according to art. 92 para. (1) letter a) and letters f)/g) of Law no. 207/2015 regarding the Fiscal Procedure Code as amended and completed;
- ❖ Notification regarding the discrepancies between the documents supplied and the fiscal evidence;

- ❖ Notice regarding the proposal for declaring as inactive according to art. 92 para. (1) letter b) or c) of the Fiscal Procedure Code/reactivation/correction of material error, for the fiscal inspection authorities;
- ❖ Notice regarding the proposal for declaring as inactive according to art. 92 para. (1) letter b) or c) of the Fiscal Procedure Code/reactivation/correction of material error, for General Antifraud Directorate;
- ❖ Notification regarding the ascertainment by the tax inspection authorities of the situations mentioned at art. 92 para. (1) letter d) - g) of the Fiscal Procedure Code.

Order no. 3.845/2015 of the President of National Agency for Fiscal Administration regarding the approval of the procedures for registration/change of fiscal domicile, as well as approval of the model and content of certain forms

Order no. 3.845/2015 published in the Official Gazette no. 15 of 8 January 2016

The present order approves:

- ❖ The procedure for registration/change of fiscal domicile for taxpayers subject to registration in the Trade Registry;
- ❖ The procedure for registration/change of fiscal domicile for taxpayers subject to registration with the tax authorities;
- ❖ The procedure for changing the fiscal domicile for individuals who own a personal identification code;
- ❖ The procedure of ex-officio registration/change of the fiscal domicile of the taxpayer.

Approval of the model and content of the following forms:

- ❖ Decision of registration/change of fiscal domicile;
- ❖ Decision for ex-officio registration/change of fiscal domicile of the taxpayer;
- ❖ Notification regarding the ex-officio registration/change of fiscal domicile of the taxpayer.

Order no. 4.160/2015 of the Minister of Public Finance regarding the amendment and completion of certain accounting regulations

Order no. 4.160/2015 published in the Official Gazette no. 21 of 12 January 2016

- ❖ The present Order amends the accounting regulations regarding the individual annual financial statements and the consolidated annual financial statements approved by Order no. 1802/2014 of the Minister of Public Finance.

Law for approving the Government Emergency Ordinance no. 44/2015 regarding the granting of fiscal incentives

Law no. 4/2016 published in the Official Gazette no. 24 of 14 January 2016

- ❖ The Law amends and completes GEO no. 44/2015 regarding the granting of fiscal incentives.

Order no. 4.147/2015 of the Minister of Public Finance regarding the approval of the application norms on the VAT exemptions for international traffic of goods

Order no. 4.147/2015 published in the Official Gazette no. 26 of 14 January 2016

- ❖ The Order approves the application norms on the VAT exemptions for international traffic of goods, stipulated in art. 295 para. (1) of Law no. 227/2015 regarding the Fiscal Code.
- ❖ Order of the Minister of Public Finance no. 2218/2006 is repealed.

Order no. 4.146/2015 of the Minister of Public Finance regarding the approval of the application norms on the VAT exemption

Order no. 4.146/2015 published in the Official Gazette no. 33 of 18 January 2016

❖ The Order no. 4.146/2015 approves the application norms on the VAT exemption, provided in art. 294 para. (1) let. j), k), l), m) and n) of Law no. 227/2015 regarding the Fiscal Code and art. X and XI of the Agreement between Romania and the United States of

America regarding the status of US forces in Romania, signed in Washington on 30 October 2001, ratified by Law no. 260/2002.

❖ Order of the Minister of Public Finance no. 2.389/2011 is repealed.

Order no. 52/2016 of the Minister of Public Finance regarding the approval of the computer to determine the monthly personal deductions for taxpayers who derive income from salaries to the basic function, starting with January 2016

Order no. 52/2016 published in the Official Gazette no. 52 of 26 January 2016

❖ The Order approves the computer to determine the monthly personal deductions for taxpayers who derive income from salaries to the basic function, starting with January

2016, according to art. 77 para. (2) and art. 66 of Law no. 227/2015 regarding the Fiscal Code.

❖ Order of the Minister of Public Finance no. 1.016 / 2005 is repealed.

Order no. 371/2016 of the President of National Agency for Fiscal Administration regarding the amendment of the Order no. 3.698/2015 for approving fiscal registration forms

Order no. 371/2016 published in the Official Gazette no. 56 of 26 January 2016

The present Order amends the following forms:

❖ 020 - Tax registration statement/ Informative statement for Romanian and foreign individuals who have a personal identification number;

❖ 030 - Tax registration statement/ Informative statement for individuals who do not have a personal identification number.

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Order no. 90/2016 of the President of National Agency for Fiscal Administration regarding the approval of the content of the request for granting a payment rescheduling and supporting documents attached thereto, as well as the procedure for applying for payment rescheduling by the central fiscal body

Order no. 90/2016 published in the Official Gazette no. 45 of 20 January 2016

❖ The present order contains information regarding the items to be included in the request for payment rescheduling of tax liabilities.

❖ In Appendix no. 2, the Order presents the procedure for implementing the payment rescheduling by the central fiscal body.

Law no. 14/2006 regarding the approval of the Government Ordinance no. 25/2014 regarding the employment and detachment of foreigners in Romania and for the amending and completion of certain normative acts concerning foreigners' regime in Romania

Law no. 14/2016 published in the Official Gazette no. 48 of 21 January 2016

Amendments brought to the transfer pricing documentation regarding the value of the transactions, the drafting deadlines, the contents and the conditions for the request of the transfer pricing file and the procedure of adjustment/estimation of transfer prices

Order of the president of the National Agency for Fiscal Administration no. 442/2016 published in the Official Gazette no.74 of 2 February 2016

❖ According to the new provisions of the Order of the president of the National Agency for Fiscal Administration, large taxpayers performing transactions with affiliates parties, with a total annual value, computed by summing the value of the transactions performed with affiliated

related parties, excluding VAT, that is greater than or equal to either of the following thresholds, have the obligation to prepare annually the transfer pricing documentation file:

❖ EUR 200,000, for the interest received/paid for financial services,



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computed at the exchange rate communicated by the National Bank of Romania for the last day of the fiscal year;

- ❖ *EUR 250,000*, for transactions concerning the services received/provided, computed at the exchange rate communicated by the National Bank of Romania for the last day of the fiscal year;
- ❖ *EUR 350,000*, for transactions regarding the purchases/sales of tangible or intangible goods, computed at the exchange rate communicated by the National Bank of Romania for the last day of the fiscal year.
- ❖ Large taxpayers which do not exceed the threshold mentioned above, as well as small and medium taxpayers performing annual transactions with affiliated parties in amounts greater than or equal to any of the following thresholds must prepare the transfer pricing documentation **only at the request of the tax authorities** in case of a tax audit:
- ❖ *EUR 50,000*, excluding VAT, for interest received / paid for financial services, computed at the exchange rate communicated by the National Bank of Romania for the last day of the fiscal year;
- ❖ *EUR 50,000*, excluding VAT, for services received / rendered, computed at the

exchange rate communicated by the National Bank of Romania for the last day of the fiscal year;

- ❖ *EUR 100,000*, excluding VAT, for purchases/sales of tangible or intangible goods, computed at the exchange rate communicated by the National Bank of Romania for the last day of the fiscal year;
- ❖ According to the new provisions, taxpayers which perform intra-group transactions with an annual value lower than any of the materiality thresholds presented above, should document the arm's length principle, in case of a tax audit, according to general rules presented by the fiscal and accounting regulations in force.
- ❖ According to the new Order, the deadline for presenting the documentation for large taxpayers is: no later than 10 days from the date of the request, but not earlier than 10 days after the deadline for preparing the file.
- ❖ Provisions regarding the large taxpayers which have the obligation to prepare annually the transfer pricing file shall be applicable for transactions performed with affiliated parties starting with 2016.
- ❖ The new Order applies for the procedures initiated after 1 January 2016.

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Order of the president of the National Agency for Fiscal Administration no. 793/2016 published in the Official Gazette no.146 of 25 February 2016

- ❖ The Order approves the model and content, as well as related filling instructions of form (307) „Statement on the amounts resulted from the VAT adjustments/ adjustments correction/ regularization”.
- ❖ In addition to the previous provisions, Form 307 shall also be filled in and submitted by the taxable person whose VAT registration has been cancelled according to art. 316 par. (11) let. h) from Law no. 227/2015 regarding the Fiscal Code.

The approval of the Procedure for publishing the lists of debtors with outstanding fiscal obligations, as well as the amount of such obligations

Order of the president of the National Agency for Fiscal Administration no. 558/2016 published in the Official Gazette no. 78 of 3 February 2016

- ❖ According to the Order, central tax authorities publish on the internet page of the National Agency for Fiscal Administration, the lists of debtors with outstanding fiscal obligations, as well as the amount of such obligations, for every budget administered by central tax authority, for debtors – legal persons and for debtors – natural persons.
- ❖ The outstanding fiscal obligations are defined as follows:
 - ❖ tax obligations with attained maturity or payment term;
 - ❖ principal and accessory tax obligations differences established by tax assessment decision, even though the payment deadline has not been attained according to the Fiscal Procedure Code;
- ❖ According to the Order, the outstanding tax obligations with a total amount under the following thresholds shall not be published on ANAF's internet page:
 - ❖ 1.500 lei, for large taxpayers;
 - ❖ 1.000 lei, for medium taxpayers;
 - ❖ 500 lei, for the other categories of debtors, including natural persons with outstanding tax obligations and who perform independent economic activities/free professions;

- ❖ 100 lei, for natural persons debtors, others than those mentioned above.

Preparation and submission of annual financial statements and annual accounting reports of economic operators to the territorial units of the Ministry of Finance

Order of the Minister of Public Finance no. 123/2016 published in the Official Gazette no. 81 of 4 February 2016

- ❖ The Order refers to the main aspects of preparing and submitting annual financial statements and annual accounting reports of economic operators to the territorial units of the Ministry of Finance.
- ❖ The present Order repeals Order no. 65/2015 regarding the main aspects of preparing and submitting annual financial statements and annual accounting reports of economic operators to the territorial units of the Ministry of Finance .

The approval of the Procedure for the administration and monitoring of medium taxpayers and for amending several provisions regarding the administration of medium taxpayers

Order of the president of the National Agency for Fiscal Administration no. 560/2016 published in the Official Gazette no. 83 of 4 February 2016

- ❖ The Order approves the Procedure for the administration and monitoring medium taxpayers.
- ❖ The procedure regulates, inter alia, fiscal registration of medium taxpayers, their statement obligations, the resolution of return claims with negative VAT amounts, with reimbursement option, the tax obligation payment procedure for medium taxpayers, the enforcement procedure etc.
- ❖ The Order enters into force after publication in the Official Gazette and repeals Order no. 468/2015.

The approval of norms regarding VAT return to customers, natural persons, which are not established within the European Union

Order of the Minister of Public Finance no. 101/2016 published in the Official Gazette no. 87 of 5 February 2016

- ❖ The Order approves the Norms regarding VAT return to customers - natural persons who are not established in the European Union and repeals the Order of the Minister of Economy and Finance no. 1692/2007.

Payment of taxes, contributions and other amounts representing tax receivables

Order of the president of the National Agency for Fiscal Administration no. 531/2016 published in the Official Gazette no. 89 of 5 February 2016

- ❖ The Order regarding taxes, contributions and other amounts representing tax receivables, payable by the taxpayers into a single account repeals Order no. 1294/2007.
- ❖ The new Order approves:
 - ❖ The classification of tax obligations due to the state budget, which are to be paid to the single account "Amounts collected for the state budget into the single account, pending distribution";
 - ❖ The classification of tax obligations due to the social insurance budgets and special funds, which are to be paid into the single account "Financial resources of the social insurance budgets and special funds, pending distribution";

The approval of the rules for the exemption of the VAT and excise duties on the final importation of certain goods

Order of the Minister of Public Finance no. 105/2016 published in the Official Gazette no. 90 of 8 February 2016

- ❖ The Order approves the Norms for the exemption of the VAT and excise duties on the final importation of certain goods as well as the procedure concerning the authorisation of certain bodies for the import of goods under an exemption scheme. The present Order repeals the Order of the Minister of Public Finance no. 2220/2006 as well as the Order of the Minister of Economy and Finance no. 2180/2007.

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The approval of VAT registration procedure

Order of the president of the National Agency for Fiscal Administration no. 521/2016 published in the Official Gazette no. 91 of 8 February 2016

- ❖ The Order approves the procedure for VAT registration, according to the provisions of the art. 316 par. (1) let. a) or c) from Law no. 227/2015 regarding the Fiscal Code, with subsequent amendments and further supplements, and for approving the model and content of a form.
- ❖ The present Order repeals the Order of the president of the National Agency for Fiscal Administration no. 1967/2011.

The approval of the Instructions to apply the VAT simplification measures

Order of the Minister of Public Finance no. 102/2016 published in the Official Gazette no. 96 of 9 February 2016

- ❖ The Order approves the Instructions to apply the VAT simplification measures for multi-party operations in the European Union related to works on movable tangible goods, and the Instructions to apply the VAT simplification measures for return of goods within the European Union and the fiscal treatment of the repairs made during the guarantee and post-guarantee period.
- ❖ The present Order repeals the Order no. 3417/2009 for the approval of the Instructions to apply the VAT simplification measures for multi-party operations in the European Union related to works on movable tangible goods, and the Instructions to apply the VAT simplification measures for return of goods within the European Union and the fiscal treatment of the repairs made during the guarantee and post-guarantee period.

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The approval of the excise duties configuration Code and the classification of the harmonized excisable goods codes

Order of the Minister of Public Finance no. 221/2016 published in the Official Gazette no.147 of 25 February 2016

- ❖ The Order approves the configuration of the excise duties Code and the classification of the harmonised excisable goods codes.
- ❖ The present Order repeals the Order of the Minister of Economy and Finance no. 3661/2008.

The approval of the instructions for the application of the VAT exemption

Order of the Minister of Public Finance no. 103/2016 published in the Official Gazette no.106 of 11 February 2016

- ❖ The Order approves the Instructions for the application of the VAT exemption in case of operations provided by art. 294 par. (1) let. a) – i), art. 294 par. (2) and art. 296 from Law no. 227/2015 regarding the Fiscal Code, with the subsequent amendments and supplements.
- ❖ The present Order repeals the Order of the Minister of Public Finance no. 2222/2006 regarding the approval of the Instructions for the application of the VAT exemption in case of operations provided by art. 143 par. (1) let. a) – i), art. 143 par. (2) and art. 144 from Law no. 571/2003 regarding the Fiscal Code.

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For details you can contact any member of TaxHouse team or you can send us a message at the email address office@taxhouse.ro.

