



# **Tax Hot Topics**



**Law for the approval of Emergency Ordinance no. 25/2018 regarding the amendment and completion of certain normative acts, as well as the approval of certain fiscal and budgetary measures published in the Official Gazette no. 44/17.01.2019**

**Amendments and completions to Law 227/2015 regarding the Fiscal Code**

**1. Amendments and completions related to corporate income tax:**

regarding the tax credit applicable in case of sponsorship expenses

- As of 1 April 2019, taxpayers subject to corporate income tax or micro-company tax are entitled to deduct from the corporate income tax/ micro-company tax due, the amounts related to the sponsorships made to non-profit legal entities and churches only insofar the beneficiaries of the sponsorship are registered in the Registry of non-profit entities/ churches approved by ANAF Order.
- In case of sponsorships carried out by micro-companies, the condition requiring non-profit entities, beneficiaries of the sponsorship, to be accredited for the social services provided with at least one licensed social service was eliminated.
- According to the law, the Registry of non-profit entities/ churches which will further be organised by ANAF, will only include entities that cumulatively meet the following conditions:
  - carry out activities for which they have been incorporated;
  - have fulfilled their tax reporting obligations and have no outstanding tax liabilities older than 90 days;
  - have submitted their annual financial statements;
  - have not been declared inactive taxpayers.

regarding the tax treatment applicable to exceeding borrowing costs

- As of 1 January 2019, exceeding borrowing costs are deductible for corporate income tax computation purposes within the limit of EUR 1,000,000 and 30% of the taxable base established according to the Fiscal Code.
- In case the taxable base is negative or equal to zero, the exceeding borrowing costs above the tax deductible threshold, the RON equivalent of EUR 1,000,000, are considered non-deductible expenses for corporate income tax computation purposes during the current year.
- Legal entities involved in reorganisation operations shall take over/ carry forward exceeding borrowing costs proportionally with the assets transferred (in whole or partially).

**2. Amendments and completions concerning personal income tax aspects**

related to the right of taxpayer to dispose of an amount of the personal income tax/ capital gain tax due

- Individuals deriving employment income, revenues from intellectual property rights, pension, rental activities, including, income received from abroad etc., may redirect up to 3.5% of their personal income tax/capital gains tax due towards non-profit entities which are registered and

operate according to law and also towards churches, if, at the date of payment, such entities are registered with the Registry of non-profit entities approved by ANAF.

regarding income from other sources obtained by individuals

- As of 2019, revenues obtained from the transfer of virtual currency is treated as income obtained from other sources.
- In this respect, the revenues obtained from the transfer of virtual currency is computed as the positive difference between the sale price and the acquisition price, including also the related costs of such transaction. Revenues below the threshold of RON 200 per transaction are not taxable as long as the total amount of revenues obtained within a year do not exceed RON 600.
- Taxpayers obtaining revenues from the transfer of virtual currency are required to file the Sole tax return by 15 March inclusive of the year that follows the one in which the income was obtained.

### 3. Amendments and completions in the VAT field

related to the sale of buildings as part of social policies

- The limitation stating that non married individuals or families could only acquire one dwelling with a reduced VAT rate of 5% is eliminated.
- The condition approving the total area of land of 250 m<sup>2</sup> on which the dwelling is built, including the round footprint of the dwelling, a condition previously applicable in order to apply the reduced VAT rate of 5% for the delivery of buildings part of social policies, is also eliminated.

related to the adjustment of the taxable base in case of the bankruptcy of the beneficiary

- Additional provisions are introduced with respect to the adjustment of the taxable base in case the value of the goods or services cannot be cashed in as a result of the bankruptcy of the beneficiary. Thus, if the bankruptcy occurred before 1 January 2019 and the final/ final and irrevocable court decision approving the closing of the procedure per the insolvency law was not issued until this date, the adjustment of the taxable base is performed within 5 years starting with 1 January 2019.

### **Amendments and completions to Law 227/2015 regarding the Fiscal Procedure Code**

1. In respect of the Fiscal Procedure Code, the present law establishes the following:
  - The tax liabilities included in tax administrative acts challenged according to the law and guaranteed per the Fiscal Procedure Code are not considered outstanding tax liabilities.
  - The enforcement procedure is suspended or does not begin where the tax liabilities established in tax administrative acts are challenged according to law and guaranteed per the Fiscal Procedure Code.
  - The enforcement procedure begins or continues after the tax administrative acts remain final by means of a definitive administrative or judicial procedure.
  - Also, throughout the enforcement procedure's suspension period, including the case of tax liabilities included in tax administrative acts challenged according to the law and guaranteed

per the Fiscal Procedure Code, the tax authorities do not issue nor communicate decisions regarding ancillary tax liabilities.

- The mediation procedure is introduced which aims at avoiding the enforcement procedure in case of outstanding tax liabilities.

**Amendments brought to Law 165/2018 regarding vouchers**

- The provisions regarding the tax treatment applicable in case of vouchers granted to employees are updated. Thus, the tax treatment of meal tickets, gift vouchers, holiday vouchers, nursery vouchers, cultural vouchers for beneficiaries as well as for the employers/ income payers is the one provided by Law no. 227/2015 regarding the Fiscal Code.
- At the same time, the provisions of the law that provided the tax treatment from a corporate income tax perspective and as well as that of personal income tax and social contributions owed by the employer and the employee in relation to the salary income tax are eliminated.