

# TAX HOT TOPICS

7 August 2019

***Government Ordinance no. 6/2019 regarding certain tax relief measures  
published in the Official Gazette no. 648 of 5<sup>th</sup> August 2019***

✿ The Ordinance sets up two alternative mechanisms to the payment scheduling procedure (already regulated by *Law no. 207/2015 regarding the Fiscal Procedure Code*), as follows:

A. Restructuring measures in relation to budgetary obligations outstanding as at 31<sup>st</sup> of December 2018 for debtors with debts **amounting to or greater than RON 1 million**:

- ✿ The measures are applicable to debtors facing financial difficulties and a risk of insolvency.
- ✿ Debtors should simultaneously meet the following conditions:
  - not meet the conditions for applying the payment scheduling procedure regulated by Law no. 207/2015 regarding the Fiscal Procedure Code;
  - present a restructuring plan and a test of the prudent private creditor, prepared by an independent expert;
  - not be under insolvency proceedings;
  - not to have been subject to dissolution;
  - have all tax returns submitted;
  - meet the prudent private creditor test.
- ✿ The restructuring measures which may be proposed through the restructuring plan include:
  - facilities for paying budgetary obligations;
  - conversion of principal budgetary obligations into shares;
  - settlement of principal budgetary obligations through disposals of the debtor's immovable property;
  - cancellation of some principal budgetary obligations (under certain conditions).
- ✿ The budgetary obligations covered by these measures are:
  - all the principal budgetary obligations and accessories reflected in the tax attestation certificate, outstanding as at 31<sup>st</sup> of December 2018 and not settled until the issue date of the tax attestation certificate, including those declared by the debtor or established by the tax authorities through tax assessment decision after 1<sup>st</sup> of January 2019 in relation to tax periods up to 31<sup>st</sup> of December 2018;
  - budgetary obligations established by other authorities than the tax authorities, as well as fines of any kind, sent for recovery to the tax authorities after 1<sup>st</sup> of January 2019.

- ❖ Debtors have to notify the competent tax authorities with respect to their decision to apply the restructuring measures until 30<sup>th</sup> of September 2019.
  - ❖ The restructuring measures are applicable based on a procedure which involves, amongst others, the submission of a restructuring request (within 6 months as of the entry into force of the Ordinance), as well as the prior approval of the tax authorities.
  - ❖ In certain circumstances (e.g. rejection of the restructuring request, failure of the restructuring plan, etc.), the tax authorities are obliged to request the initiation of the insolvency proceedings.
  - ❖ *The procedure for applying the mechanism of restructuring measures shall be approved by order of the ministry of public finances, within maximum 15 days of the entry into force of the Ordinance.*
- B. Cancellation of accessories if the principal budgetary obligations are settled by 15<sup>th</sup> of December 2019, for debtors with debts under **RON 1 million**:**
- ❖ The measure is also accessible to debtors – individuals or entities without legal personality, administrative-territorial units or administrative-territorial subdivisions of Bucharest or public institutions – with outstanding principal budgetary obligations as at 31<sup>st</sup> of December 2018 amounting to or greater than RON 1 million.
  - ❖ Debtors should simultaneously meet the following conditions:
    - settle all principal budgetary obligations outstanding as at 31<sup>st</sup> of December 2018 by 15<sup>th</sup> of December 2019, inclusively;
    - settle all principal budgetary obligations and accessories with payment terms between 1<sup>st</sup> of January 2019 – 15<sup>th</sup> of December 2019 until the date of filing the accessories cancellation request;
    - have all tax returns submitted;
    - submit the accessories cancellation request until 15<sup>th</sup> of December 2019.
  - ❖ The relief consists in the cancellation of the accessories related to budgetary obligations, as follows:
    - budgetary obligations outstanding as at 31<sup>st</sup> of December 2018;
    - budgetary obligations declared by debtors through rectifying tax returns;
    - budgetary obligations with payment terms prior to 31<sup>st</sup> of December 2018 and settled by this date;
    - budgetary obligations with payment terms prior to 31<sup>st</sup> of December 2018 established by tax assessment decisions.
  - ❖ The relief is applicable based on a procedure which involves, amongst others, the submission of a request for the cancellation of accessories, as well as the prior approval of the tax authorities.

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❖ *The procedure for applying the mechanism of cancellation of accessories shall be approved by order of the ministry of public finances, within 30 days of the entry into force of the Ordinance.*

❖ The provisions of Ordinance no. 6/2019 enter into effect on 8<sup>th</sup> of August 2019.

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*For additional details regarding the above, you can contact any member of the Taxhouse team or you can send us an e-mail at [office@taxhouse.ro](mailto:office@taxhouse.ro).*