

TAX HOT TOPICS

14 November 2017

Main amendments and completions brought to the Fiscal Code

Emergency Ordinance no. 79/2017 published in the Official Gazette no. 885 of 10.11.2017

- ❖ This Emergency Ordinance amends and supplements Law no. 227/2015 regarding the Fiscal Code, as follows:
 - ❖ Introduction of the general anti-abuse rule;
 - ❖ Introduction of rules regarding controlled foreign companies.

Title I – General provisions

- ❖ Starting 1st of January 2018, the following mandatory social contributions are provided by the Fiscal Code:
 - a) social security contribution;
 - b) social health insurance contribution;
 - c) work insurance contribution.

Title II – Corporate income tax

- ❖ The Emergency Ordinance transposes the provisions of the Council Directive (EU) 2016/1164 of 12 July 2016 laying down rules against tax avoidance practices that directly affect the functioning of the internal market (“ATAD”) to the national law.
- ❖ The transposition of the ATAD Directive focuses on the following areas:
 - ❖ Amendment of the rules regarding the limitation of interest deductibility;
 - ❖ Introduction of rules regarding exit taxation;

- ❖ The term for the transposition in the Romanian fiscal legislation of the hybrid mismatches rules was postponed until 31st of December 2019.

Title III – Tax on microenterprise’s income

- ❖ The Emergency Ordinance no. 79/2017 amends the conditions for the application of the microenterprise’s income tax.
- ❖ Thus, entities that, at 31st of December of the previous fiscal year earn income (in RON equivalent) less than EUR 1,000,000, become microenterprise income taxpayers.
- ❖ The exception from the microenterprise regime applicable for entities deriving more than 80% of their income from management and consultancy services is eliminated.
- ❖ The exception from the microenterprise regime of the entities that carry out certain economic activities is eliminated as well.
- ❖ The option to apply for the provisions of Title II *Corporate income tax* for microenterprises with a share capital

exceeding RON 45,000 to their social equity is eliminated.

Title IV – Personal income tax

- ❖ The standard personal income tax rate is reduced from 16% to 10%.
- ❖ The level of the personal deduction is amended as well.
- ❖ The monthly non-taxable threshold related to income from pensions is increased to RON 2,000.

Title V – Mandatory social contributions

- ❖ Rules related to social security contributions rates and liable persons are amended and supplemented, as follows:
 - ❖ *The social security contribution*
 - **25%** due by individuals who are employees or for which there is a payment obligation;
 - **4%** due by employers individuals or employers legal entities in case of specific work conditions;
 - **8%** due by employers individuals or employers legal entities in case of special work conditions.
 - ❖ *Social health insurance contribution:*
 - **10%** due by individuals who are employees or for which there is a payment obligation;
 - ❖ *Work insurance contribution*
 - **2.25%** - due by employers.
- ❖ According to the new provisions, the work insurance contribution is designed to finance the social security benefits for employees, such as: unemployment allowances, the allowances for medical

leave, the work accidents or professional diseases allowances, as well as for funding the Guarantee Fund for salary payments.

- ❖ The Emergency Ordinance introduces new rules for the application of the exemption from the social security contribution and the social health insurance contribution for certain categories of income.
- ❖ Also, new rules for determination and declaration of the social security contribution and the social health insurance contribution are introduced for individuals deriving income from independent activities.

Title VII – Value added tax

- ❖ New provisions are added as regards the VAT deduction right. Thus, the right to deduct the VAT may be denied if, after the analysis of the proofs provided by the law, the tax authorities can demonstrate without a doubt that the taxable person knew or should have known that the operation for which VAT deductibility is requested was connected to a VAT fraud which appeared upstream or downstream of the supply chain.

Title VIII - Excise duties and other special taxes

- ❖ An additional penalty of confiscating the containers and means of transport used for the transportation and/or storage of products subject to excise duties is introduced for special cases provided by the Fiscal Code.

Title IX – Local taxes

- ❖ The tax due for vehicles used for transportation of goods with the total

TAX HOT TOPICS

authorised weight equal to or greater than 12 tonnes is updated.

- ❖ The possibility to pay the half of the minimum level of the fine set forth by Title IX *Local taxes*, on the spot or within 48 hours since the minute is concluded or, should the case be, since its communication, is set forth.

Transitory provisions

- ❖ The amendments brought to Title IV *Personal income tax* and Title V *Mandatory social*

contributions will be applicable to income derived starting 1st of January 2018.

- ❖ For the income related to periods previous to the 2018 tax year, the mandatory social contributions are the ones in force during the periods in which the income was registered.
- ❖ The other provisions of the Emergency Ordinance will enter in force as of 1st of January 2018.

* * *

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