

# TAX HOT TOPICS

## Emergency Ordinance no. 32/2020

for the amendment and completion of Government Emergency Ordinance no. 30/2020 for the amendment and completion of certain normative acts, as well as for providing measures in the field of social protection in context of the epidemiological situation resulted further to the spread of the SARS-CoV-2 coronavirus and for establishing additional measures of social protection

- ❖ Emergency Ordinance no. 33/2020 for the amendment and completion of Government Emergency Ordinance no. 30/2020 for the amendment and completion of certain normative acts was published in the Official Gazette no. 260/30.03.2020.
- ❖ In this respect, certain important amendments have been brought in respect of the compensations borne from the unemployment insurance budget, the most relevant amendments referring to the following:
  - ❖ Economic operators who temporarily reduce or terminate their economic activity, either partially or totally, as a result of the effects of the COVID-19 epidemic, may benefit from the payment of a compensation borne from the state budget, for all of their employees **who have employment agreements in place, based on a request, accompanied by an affidavit (model to be published) and a list of the individuals who will benefit of such compensation**, submitted via e-mail, with the employment agencies;
  - ❖ For the purpose of obtaining such **compensations borne from the unemployment insurance budget**:
    - the conditions referring to the financial position of the employer are eliminated (i.e. the lack of financial resources to pay the salaries, in full, to their employees, respectively the decrease of income/ revenue obtained in comparison to previous periods);
    - **the obligation of obtaining a state of emergency certificate is eliminated.**
  - ❖ Such compensation is still subject to personal income tax and social security contributions, which are withheld and paid by the employer from the amount received as compensation cashed in from the state. Such compensation is not subject to the work contribution due by the employer;
  - ❖ During the period when the technical unemployment is valid, the employee benefits from a contribution period to the social health insurance system for medical leaves and social health insurance benefits, without payment of the contribution;

## ❖ Additional provisions:

- The employers can pay, from own funds, the difference of **up to a minimum of 75% of the gross salary** corresponding to position occupied in case of the employees with monthly salaries that exceed the level of 5,429 lei (gross average salary);
- The employee who has concluded several employment contracts, of which at least **a full-time one is still in place during the state of emergency** will not benefit of such compensation;
- The employee who has concluded several employment contracts and all of such contracts are suspended during the state of emergency, can benefit from a compensation computed at the level of the employment agreement with the most advantageous salary rights;
- **The deadline** for payment to the employer of the compensation borne from the unemployment insurance budget **is reduced to 15 days** from the date of the submission of the documents;
- **A new 3 day deadline** is introduced where the employer has the obligation to transfer the compensation to the employees as from the date it receives the amounts from the competent authorities.

## ❖ **Registered sole traders, sole proprietorships, as well as individuals who obtain income exclusively from copyright** and which suspend their activity due to the effects of coronavirus, during the state of emergency, **benefit from a compensation, borne by the state, equal to 75% of the average gross salary** provided for 2020;

- In this case, beneficiaries submit a request accompanied by an affidavit and a copy of the identity card, via email, to the local agencies for payments and social inspection; the documents should be submitted by the 10th of the current month for payment of the compensation corresponding to the previous month, the payment being made within 10 days from the receipt of the documents.
- Payment of the compensation is performed in the bank accounts opened by the beneficiaries;
- The compensation is subject to personal income tax, social security contribution and health insurance contribution according to the Tax Code; **additional clarifications will be brought in respect to the computation method, declaration and payment.**

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### **Emergency Ordinance no. 33/2020 regarding certain fiscal measures and for the amendment of certain normative acts**

- ❖ **Emergency Ordinance no. 33/2020 regarding certain fiscal measures and for the amendment of certain normative acts was published in the Official Gazette no. 260/30.03.2020.**
- ❖ **The most important measures brought in this respect concern the following aspects relevant from an economic/fiscal perspective:**
  - ❖ Corporate income tax payers (including taxpayers which apply an anticipated payment system) who perform the payment due for the first quarter of 2020, within the legal deadline of 25 April 2020, benefit from a deduction, as follows:
    - 5% of the payable corporate income tax for the first quarter in case of large taxpayers;
    - 10% of the payable corporate income tax for the first quarter in case of medium size taxpayers;
    - 10% of the payable corporate income tax for the first quarter in case of other categories of taxpayers.
  - ❖ Taxpayers who opted to have the fiscal year different from the calendar year can benefit from the aforementioned deduction if they perform the payment of the tax due for the quarter/quarterly advance payment within the 25 April to 25 June 2020 period;
  - ❖ The above provisions are also applicable in case of taxpayers who are subject to specific tax, for the corporate income tax due for the first quarter of 2020 resulted from other activities than those which fall under the specific tax regime;
  - ❖ The taxpayers subject to micro-enterprise tax, which perform the payment due for the first quarter of 2020 within the legal deadline of 25 April 2020, may benefit from a 10% deduction from the payment of the micro-enterprise tax due for the respective quarter;
  - ❖ The corporate income tax/micro-enterprise tax is computed after deducting the bonus from the tax due. For taxpayers subject to corporate income tax, the deduction is included distinctly in the annual corporate income tax return;
  - ❖ No payment of VAT will be due in customs for import of medicines, protective equipment, other medical devices or medical equipment and materials used for prevention, limitation, treatment and combating purposes of the COVID - 19 infection (tariff classification provided in the Annex of the Order), made by taxable persons registered for VAT purposes, during the state emergency and for another 30 days from the date of termination of the state of emergency, respectively;

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- Test kits, instruments and equipment used in diagnostic tests, reagents tests;
  - Protective equipment & similar products (face/gas mask, goggles, gloves, protective clothing);
  - Thermometers with liquid (mercury), digital/infrared thermometers;
  - Disinfectants/sterilization products;
  - Other medical devices (CT scanner, medical ventilators, oxygen therapy devices, patient monitoring devices, ultrasounds);
  - Medical supplies (cotton, gauze, bandages, syringes, needles, intubation kits, sheets of paper);
  - Medicinally (paracetamol, Hydroxychloroquine, Lopinavir/Ritonavir, Remdesivir, Tocilizumab).
- ❖ The VAT amount related to the imports mentioned before will be reported by importers as both input VAT and output VAT;
- ❖ **The reduction of income/revenue of a minimum of 25% recorded during March 2020 as compared to the average amounts reported during January and February 2020 or the total or partial interruption of the activity as a result of the decisions issued by the competent public authorities during the state of emergency is recognized in the emergency certificate (CSU) based on an affidavit.**
- ❖ Further to the provisions of Emergency Ordinance no. 32/2020 for amending the Emergency Ordinance no. 30/2020 according to which there is no obligation to justify the request for payment of the compensation borne from the unemployment budget, based on CSU, such CSU will only be relevant for **postponing payment of utilities and rent and for obtaining financial support packages from the state consisting of guaranteeing investment credits/working capital and interest subsidy** or for postponement of loan related payments.

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### Emergency Ordinance no. 37/2020 regarding the approval of incentives for loans granted by credit institutions and non financial institutions to certain categories of debtors

- ❖ Emergency Ordinance no. 37/2020 regarding the approval of incentives for loans granted by credit institutions and non financial institutions to certain categories of debtors was published in the Official Gazette no. 261 of 30.03.2020.
- ❖ In this respect, certain provisions regarding the postponement of payment of loan installments have been approved, respectively:
  - ❖ Upon the request of debtors, the obligation of paying loan installments for loan **agreements** representing principal, interest, commissions, concluded until the date the present ordinance came into force, is postponed **to up to 9 months**, but no later than 31.12.2020;
  - ❖ The following aspects are relevant in respect of loans eligible for requesting the postponement of the payment:
    - the debtors have not requested an anticipated payment prior to the date when this ordinance came into force;
    - for the respective loans, no outstanding amounts are due at the date when the state of emergency begun (i.e., 16 March 2020) or the outstanding amounts have been paid until submission of the request for postponing the payment;
  - ❖ **The request** for postponing the payment shall be provided in writing or by means of distance communication forms, within 45 days from the date when this ordinance comes into force;
  - ❖ The beneficiaries of such measures are debtors such as **individuals, sole traders, sole proprietorships, persons with liberal professions, family owned and operated business, legal entities** which had their income affected, directly or indirectly, by the COVID-19 pandemic, according to the norms issued for this emergency ordinance ((which will be published within 15 days from the date when the present ordinance was published);
  - ❖ Debtors, other than individuals, must cumulatively fulfill the following conditions in order to benefit from postponing the payment of loan principal, interest and commissions:
    - such entities interrupt their activity, totally or partially, as a result of the decisions of competent authorities and hold an emergency certificate issued in this respect (the blue type) or an emergency certificate (the yellow type) which

states, based on the affidavit submitted, the reduction in revenues/ income reported during March 2020 of at least 25% as compared to the average amount recorded during January-February 2020 and

- such entities are not subject to insolvency procedures at the date when requesting the postponement of the payment for loan related installments;
- ❖ The extension of loan agreements period will apply starting with the date of the submission of the request by the debtors, and the subsequent contractual amendments do not require concluding of additional addendums;
- ❖ **Interest computed for loan installments**, which have been postponed upon request, will be capitalized on the credit balance at the end of the suspended period;
- ❖ By way of exception, in the case of mortgage loans contracted by the individuals, during the period when there is a postponement request, the interest is computed as per the provision of the loan agreement and represent an independent and distinct debt from all other obligations arising further to the loan agreement – in case of such debt, the interest is 0% and is payable in 60 equal monthly installments starting with the month when the deferral period is terminated.

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## MILITARY Ordinance no. 5/2020 on measures for preventing the spread of COVID-19 (Official Gazette no. 262/31.03.2020)

- ❖ Some of the measures taken via previous Ordinances are prolonged, such as:
  - ❖ The measure of suspension of flights performed by airline operators to Spain and from Spain to Romania is extended for a period of 14 days, starting with March 31, 2020 at 18.00. The same measure is also adopted with regard to Italy, starting with April 6, 2020. The measures do not apply to flights performed by state aircraft, to freight and correspondence flights, humanitarian or providing emergency medical services, as well as to technical non-commercial landings.
  - ❖ The Ordinance regulates the **possibility of attracting the criminal liability** of persons who leave the place where they were quarantined (without the approval of the authorities), respectively of those who do not respect the conditions of isolation at the declared place/ at which they chose to perform the isolation and are identified outside the isolation spaces.

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**MILITARY Ordinance no. 6/2020 regarding the establishment of quarantine measure on Suceava municipality, some communes in the neighboring area, as well as a protection zone on some administrative-territorial units in Suceava county (Official Gazette no. 262/31.03.2020)**

- ❖ **The Ordinance establishes quarantine on Suceava municipality and a neighboring area, as well as other measures related to this aspect. Of the main provisions we mention:**
- ❖ The quarantine measure is established during the state of emergency in Suceava municipality and in the surrounding area consisting of the following eight communes: Adancata, Salcea, Ipotesti, Bosanci, Moara, Scheia, Patrauti and Mitocu Dragomirnei, as well as a protection zone, as a perimeter of safety around quarantined localities, consisting of all other administrative territorial units in Suceava county.
- ❖ The entrance, respectively the exit from the quarantined zone are allowed for:
  - **freight transport**, regardless of its nature, of the raw materials and resources **needed to carry out the economic activities** in the quarantined area, as well as the **population supply**;
  - persons who do not live in the quarantined area, but who carry out economic activities or in the field of defense, public order, national security, health, emergency situations, local public administration, welfare and social protection, judiciary, public utility services, energy, agriculture, public food, water supply, communications and transport.

*Note: the County Center for Coordination and Management of the Intervention - Suceava (CCCFMI) is empowered to establish completions and exceptions to the above.*

- ❖ No tickets/ subscriptions/ other titles for the rail transport of passengers in the quarantined area will be sold, save for the cases where the above conditions are met.

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Please note that up to this date four other MILITARY Ordinances have been published which, amongst others, condition the freedom of movement of Romanian citizens during the state of emergency period and the suspension of certain activities of service and consumption.

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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)*