

TAX HOT TOPICS

10 September 2020

**Emergency Ordinance no. 153/2020 for the implementation of fiscal measures to stimulate the maintenance/increase of equity, as well as for the completion of normative acts
(Official Gazette no. 817 of September 4, 2020)**

❖ Fiscal measures to stimulate the maintenance/increase of equity

- ❖ Taxpayers subject to **the corporate tax system, micro-enterprise tax and specific tax system** may benefit from reductions of annual income tax / microenterprises income tax /specific tax, subject to the fulfillment of certain conditions, as follows:
 - a) **reduction of 2%** if the **accounting equity presented in the annual financial statements / accounting reports for permanent establishments**, in the year for which the tax is due, **is positive** ; for taxpayers which according to the law, are obliged to constitute share capital, the equity must also meet the condition of being equal or higher than half of the subscribed share capital;
 - b) **reductions between 5% - 10%**, if the taxpayer registers an **annual increase in the adjusted equity in the year for which the tax is due** compared to the adjusted equity recorded in the previous year and at the same time the condition presented at the point a) is fulfilled. The tax reduction percentage is granted according to the intervals of annual increase of the adjusted equity;
 - c) **reduction of 3%**, in the situation of an annual increase of the adjusted equity with a percentage between 5% and 20% in the period 2022 – 2025 (the Ordinance provides the annual value of the growth percentages) compared to the adjusted equity registered in 2022. The reduction is applied starting with 2022, respectively with the modified fiscal year starting in 2022; the condition presented at the point a) must also be fulfilled.
- ❖ In the event that two or three of the reductions presented above are applicable, in order to determine the value of the total reduction, the percentages of the reductions will be cumulated and the resulting value will be applied to the due tax.
- ❖ The provisions mentioned above do not apply to taxpayers for whom the accounting regulations are issued by NBR or Financial Supervisory Authority.
- ❖ The Ordinance also includes specific regulations applicable to the taxpayers with modified fiscal year, details regarding the calculation of growth of the adjusted equity,

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as well as specific regulations related to the applicability of the provisions in case of reorganization operations.

- ❖ Depending on the direct taxation regime applicable by each taxpayer, the fiscal incentives are granted as follows:
 - **For corporate income tax payers** the percentage related to the tax reduction is applicable to the annual corporate income tax for the year in which the conditions for granting the reduction are met;
 - **For micro-enterprise income tax payers**, the percentage related to the tax reduction is applicable to the tax due for the entire fiscal year and the value of the resulting reduction is deducted from the tax related to the fourth quarter;
 - **For specific tax payers**, the percentage related to the tax reduction is applicable to the tax due for the entire fiscal year and the value of the resulting reduction is deducted from the tax due for the second semester.
- ❖ For the period for which the tax incentives are applicable (i.e. 2021 – 2015), the deadline for the submission of the tax statements (for the annual corporate income tax, for the income tax of micro-enterprises for the fourth quarter and for the specific tax for the second semester) **will be 25 June** (for the taxpayers that have a modified fiscal year, the deadline is until the 25 of the sixth month from the end of the modified fiscal year).
- ❖ **Amendment to Emergency Ordinance no. 33/ 2020 regarding certain fiscal measures and the amendment of certain normative acts**
- ❖ For the determination of the corporate income tax related to the fiscal year through the annual corporate income tax statement, the applied incentive (granted for the payment of the tax liabilities in due time, in accordance with GEO 33/2020) is deducted from the value of the corporate income tax related to the fiscal year, and if the incentive exceeds the value of the corporate income tax related to the fiscal year, the amount of the incentive taken into account is at the level of the respective tax.
- ❖ The value of the corporate income tax related to the fiscal year represents the corporate income tax resulted after deducting the external tax credit, the exempt or reduced tax, the amounts representing sponsorship and / or patronage, private scholarships, within the limit provided by law, reducing the acquisition cost of electronic cash registers tax.
- ❖ Taxpayers with the modified fiscal year that submitted the corporate income tax return without applying the bonuses can benefit from them for the tax difference due when the corporate income tax for the respective fiscal year is finalised, by submitting a rectifying statement.

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- ❖ Also, the Ordinance stipulates that the incentive is also granted for the corporate income tax due quarterly / the quarterly advance payments, which is settled with the corporate income tax recoverable from the previous fiscal years.

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.