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Fiscal Bulletin



Summary:

1. Ordinance No. 16/2022 for the amendment of Law No. 227/2015 regarding the Tax Code, abolishment of certain normative acts and other fiscal-financial measures

Important amendments brought to the Fiscal Code

On July 15, 2022, in the Romanian Official Gazette No. 716, Ordinance No. 16/2022 for the amendment of Law No. 227/2015 regarding the Tax Code, abolishment of certain normative acts and other fiscal-financial measures (“**Ordinance 16/2022**”) was published, through which multiple amendments were brought to the fiscal framework.

In the following, we present the main amendments introduced by this normative act:

1. Corporate income tax

- **Tax exemption on reinvested profit**

The new provisions regulate the extension of the facility regarding the tax exemption of the reinvested profit to investments in assets used in production and processing, as well as in assets representing refurbishments, to support taxpayers in developing new production capacities and refurbishing the existing ones.

These measures shall enter into force on January 1, 2023.

- **Dividend tax**

The dividend tax applied to dividends distributed/paid between Romanian legal entities is increased from 5% to 8%.

This measure applies to dividend income distributed after January 1, 2023.

2. Micro-enterprise income tax

The new provisions modify the rules applicable to micro-enterprises starting with January 1, 2023, the main changes being the following:

- This fiscal regime becomes optional;
- The turnover ceiling limit is reduced from EUR 1,000,000 to EUR 500,000;

- The 1% tax rate is maintained while the 3% tax rate is eliminated;
- The obligation to have at least one employee is maintained;
- The revenues from consulting and management are limited to maximum 20%;
- A new condition is introduced, regulating that a shareholder/associate can hold shares in maximum three micro-enterprises, in case of shareholders/associates holding more than 25% of the value/number of participation titles or voting rights.

Moreover, the micro-enterprise tax regime cannot be applied by companies developing activities in the following areas: banking, insurance and reinsurance, capital markets, gambling, exploration/development/exploitation of oil and gas.

Moreover, companies can no longer opt to apply for the corporate income tax regime in case the conditions related to the value of the share capital (i.e., minimum RON 45,000) and number of employees (i.e., minimum 2) are met.

In addition, the following aspects are also regulated:

- The order in which the deduction from the micro-enterprise income tax of the amounts representing sponsorships for supporting non-profit entities, as well as purchases of electronic fiscal cash registers can be made. More precisely, the deduction order is the following: i) amounts related to sponsorships; ii) acquisition cost of the cash registers and iii) tax reduction according to the provisions of GEO 153/2020;
- The establishment of a rule for deducting dividends received from EU Member States from the taxable base, even if the income was not taxed in the source country, subject to certain conditions.

3. Specific tax

Starting with January 1, 2023, Law No. 170/2016 regarding the specific tax is abolished.

Thus, taxpayers covered by this law may opt (i) for the payment of the micro-enterprise income tax, without verifying the conditions of inclusion in the system and without applying the rules on leaving this system during the year, or (ii) for the payment of the corporate income tax, according to Title II of the Fiscal Code.

4. Income tax and social security contributions

• Salary income

- *General aspects regarding the calculation of salary income*

In case of income from salaries and assimilated to salaries, a monthly non-taxable income ceiling is introduced, which is not included in the calculation base of the social security contributions, established at 33% of the base salary corresponding to the position occupied, under the conditions established by law, for certain items (e.g. the

value of food within a meal ticket/person/day, amounts paid to private pension funds up to EUR 400/year/person, value of tourist and treatment services, etc.).

The provision applies starting with the revenues related to January 2023.

- *Fiscal facilities for construction/agriculture/food industry*

Starting with August 1, 2022, the ceiling up to which the fiscal facilities applied to construction sector, agricultural sector and food industry are granted will be decreased, respectively from RON 30,000/month to RON 10,000/month, inclusive. For the part of the monthly gross income exceeding RON 10,000, the fiscal facilities will no longer apply.

- *Elimination of the fiscal facilities applied to HoReCa*

The provision according to which income from salaries obtained by individuals from employers who carry out seasonal activities in the field of HoReCa are exempt from the payment of income tax is abolished.

- *Part-time employment contracts*

It is also introduced the obligation to pay social insurance contribution („SIC”) and health insurance contribution („HIC”) at the level of the minimum gross salary in case of full-time or part-time employment contracts for which the income received is below this threshold. The income taken into account will be the minimum gross salary in force in the month for which the contributions are due and not the income earned by the employee.

The measure is applied starting with the revenues related to August 2022.

- **Income from self-employment activities determined based on income tax brackets**

The ceiling up to which taxpayers can opt to have their net income determined based on income tax brackets was decreased from EUR 100,000 to EUR 25,000.

This amendment shall apply from January 2023.

- **Income from rents**

In case of income from rents (apart from income obtained from renting personal property for tourism purposes), the taxable income becomes the gross income, thus the 40% expense flat rate is eliminated.

Moreover, the obligation to register the rent contracts is introduced, therefore such contracts must be declared to the tax authorities within maximum 30 days from their conclusion/modification.

These measures shall apply starting with 2023.

- **Dividend income**

The dividend tax applied to dividend income obtained by individuals is increased from 5% to 8%.

Such measure applies to dividend income distributed after January 1, 2023.

- **Gambling revenues**

The taxation rates applicable to gambling revenues are modified, therefore the current taxation rates of 1% - 25% are increased to 3% - 40%. In addition, the income brackets to which such taxation rates apply were also modified, from RON 66,750 to RON 10,000, respectively from RON 445,000 to RON 66,750.

The measure applies starting with gambling revenues paid starting with August 1, 2022.

- **Revenues from the transfer of real estate from personal patrimony**

The measure envisages (i) the elimination of the non-taxable ceiling of RON 450,000 representing a deduction from the value of the transaction when establishing the taxable income and (ii) the calculation of the income tax at the transaction value by applying the rate of 3% for real estate owned for up to 3 years or 1% for real estate owned for a period longer than 3 years.

The measure will enter into force on January 1, 2023.

- **SIC and HIC calculation basis for non-salary income**

The basis for calculating the SIC in case of individuals obtaining income from independent activities and/or income from intellectual property rights whose cumulative value is at least equal to 12 gross minimum wages, is the income chosen by the taxpayer, which cannot be lower than:

- The level of 12 minimum gross salaries, in case of income between 12 and 24 minimum gross salaries;
- The level of 24 minimum gross salaries, in case of income greater than 24 minimum gross salaries.

The basis for calculating the HIC in case of individuals obtaining income from independent activities and/or income from intellectual property rights, income from association with a legal person, income from rents, income from agricultural activities, forestry and fisheries, investment income and income from other sources whose cumulative value is at least equal to 6 minimum gross wages, is represented by:

- The level of 6 minimum gross salaries, in case of income between 6 and 12 minimum gross salaries;
- The level of 12 minimum gross salaries, in case of income between 12 and 24 minimum gross salaries;

- The level of 24 minimum gross salaries, in case of income greater than 24 minimum gross salaries.

These measures apply starting with 2023 revenues.

5. VAT

The new provisions refer to the following changes from VAT perspective:

- From 1 January 2023, non-alcoholic beverages falling within CN codes 2202 10 00 and 2202 99 and non-alcoholic beverages containing added sugar or other sweeteners, or flavorings shall be excluded from the scope of the 9% reduced VAT rate;
- From 1 January 2023, the reduced rate of 9% will apply to both the supply of food, including beverages (excluding alcoholic and non-alcoholic beverages containing added sugar or other sweeteners or flavorings), intended for human consumption, and animal, as well as for restaurant and catering services and for hotel accommodation activities;
- Exclusion of supplies of chemical fertilizers and chemical pesticides provided in art. 291 para. (2) lit. h) of the Fiscal Code within this regulation, simultaneously with the introduction of new, distinct provisions by which these chemicals of the type normally used in agricultural production to benefit temporarily, respectively until December 31, 2031 inclusive, from the quota facility reduced VAT by 9%;
- From 1 January 2023, the scope of the 5% reduced VAT rate will be reduced for the supply of housing to individuals, as part of social policy, in the sense that individuals benefit from this facility only once, respectively to purchase, individually or jointly with another natural person / other natural persons, a single house whose value does not exceed the amount of 600,000 lei, excluding VAT;
- Individuals who have concluded legal acts having as object the advance payment for the purchase of housing with a reduced VAT rate of 5%, prior to January 1, 2023, will benefit from the application of the reduced VAT rate in 2023 under the legal conditions in effective on the date of conclusion of these acts.

6. Local taxes

The main amendments brought to local taxes cover the following aspects:

- Elimination of the concept of mixed-use building. The measure is necessary to simplify the determination of the destination of the building and the calculation of the building tax;
- Modification of the minimum limits of tax rates for residential and non-residential buildings (minimum 0.1% for residential buildings and minimum 0.5% for non-residential buildings);

- New computation method of the taxable value for residential and non-residential buildings based on the values included in the Market studies on indicative values for real estate in Romania, administered by the National Union of Public Notaries in Romania.

Editors

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