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## **EMERGENCY ORDINANCE 31 dated 14 May 2019 regarding implementation of tax incentives as well as to amend and complete Law No. 227/2015 on Fiscal Code, supplementing OUG 11/2018 for adopting budgetary measures and to amend the framework Law No. 153/2017 on salaries paid from public funds (Official Gazette 403/2019)**

This Ordinance brings various amendments to the Fiscal Code, as presented below:

### **EXTENSION OF 5% VAT RATE APPLICABILITY**

The extension of the 5% VAT rate relates to delivery of high-quality food products, including mountain farm products, as well as organic and traditional products.

In order to apply the reduced 5% rate, the products must be authorized by the Ministry of Agriculture and Rural Development.

Invoices must be accompanied by a copy of the recognition/attestation/certification document issued by the Ministry of Agriculture and Rural Development, except for deliveries made to final consumers.

The modification shall enter into force on 1 June 2019.

### **EXTENSION OF PAYMENT PERIOD FOR TAXES AND CONTRIBUTIONS RELATED TO EXTRA INCOME EARNED BY INDIVIDUALS DURING THE 2014 – 2017 PERIOD.**

In addition to salary tax on extra income, the payment deadline for health insurance and social security taxes on extra income for the 2014 – 2017 period is 120 days from the date this Ordinance enters into force (19 September 2019). Previously, this deadline was 30 June 2019.

This extension is valid for tax rulings issued and communicated by tax authorities between 15 March 2019 and the date this Ordinance enters into force (23 May 2019).

If the above-mentioned amounts are paid within 60 days from the date this Ordinance goes into effect, i.e. until 21 July 2019, a 10% rebate is granted.

For any decisions on payment of the health contribution for the 2014 – 2017 period issued after the effective date of this Ordinance, the payment deadline is 120 days after communication of the decision. If full payment is within 60 days of the notification, a 10% rebate is granted.

### **CONTRIBUTIONS TO HEALTH INSURANCE FOR EXTRA INCOME EARNED BY INDIVIDUALS DURING THE 01 JULY 2015 - 31 DECEMBER 2017 PERIOD ARE CANCELLED WHEN AGGREGATE ANNUAL INCOME IS LOWER THAN GUARANTEED GROSS MINIMUM WAGE CORRESPONDING TO A FULL YEAR**

Under existing legislation during that period, for an individual who was not insured in the public health system and who earned occasional extra income, the health contribution on annualized guaranteed gross minimum wages was due. Thus, there are cases where insignificant income obtained during that period would generate an oversized health contribution obligation (example: 1,450 lei x 5.5% x 12 months = 957 lei). According to the Ordinance, if the tax decision has already been issued, it shall be cancelled. By default, those persons who have already paid the health contribution have the right to request reimbursement of those amounts or to offset the overpayment against other taxes.

In the event that no tax decision has been issued, the Ordinance establishes that it will no longer be published.

**ORDER 2165 dated 10 May 2019 to approve model, content and method of submission of Form 112, “Tax return regarding social contributions, income tax and nominative list of insured persons” (Official Gazette 404/2019)**

The Order approves an updated version of Form 112 as a result of introducing social security contributions (CAS) for day-laborers.

**LAW 89 dated 2 May 2019 to amend and complement OUG 111/2010 regarding maternity leave and monthly child allowances, as well as to settle new measures regarding recovery of overpaid child care allowances (Official Gazette 340/2019)**

The law amends the procedure for granting an allowance for children up to the age of 2 years old, or up to the age of 3 years old for a disabled child.

We present the main changes below:

- A child allowance is granted in the case of an adopted child followed by a new allowance for one or more children born later.
- The income ceiling that may be achieved during the period child allowance(s) is (are) paid has been increased. Thus, this ceiling was increased from 3 to 5 times the level of minimum allowance during a calendar year. Exceeding the ceiling leads to suspension of the allowance(s) granted.
  - o The current ceiling is 6,250 lei (i.e. 5 x 2.5 x social reference indicator).
  - o The ceiling relates to earnings of the same type as those that were considered when granting the allowance.
- The law establishes that no fine is assessed for failure to declare income to the territorial Benefit Agency if the individual fulfils his/her declarative obligations laid down in tax legislation, but the parent is obliged to return excess amounts received.
- Employers are not entitled to refuse parental leave for parents with children up to 2 (or 3) years of age. However, the law establishes that the grant period shall be determined by mutual agreement between the employer and the employee.
- The law obliges the employee to notify the employer at least 30 days before resuming employment activity.

**News on granting monthly child allowances**

**LAW 93 dated 6 May 2019 to approve OUG 96/2018 regarding prorogation of some terms, as well as to amend and complement some normative acts (Official Gazette 354/2019).**

Law 93/2019 brings two targeted changes to the Labour Code:

**POSSIBILITY TO CARRY OUT EMPLOYMENT AFTER THE STANDARD RETIREMENT AGE**

Thus, individuals are granted the right to continue employment after fulfilling the standard retirement conditions. Individuals have the right to work as employees for a maximum period of 3 years beyond the standard retirement age.

From a procedural point of view, the individual concerned shall send a written request to the employer at least 30 days prior to fulfilment of standard retirement conditions. With the consent of the employer, the employee will retain the same function held with an annual extension of the employment contract.

This implies that the existing employment contract is terminated when reaching retirement age and, according to the wish expressed by the employee, a new employment contract is fully executed.

**SANCTIONS AGAINST APPRENTICES WHO DO NOT FULFIL THEIR CONTRACTUAL OBLIGATIONS**

The law introduces the possibility of sanctioning apprentices who fail to comply with their contractual obligations. Thus, if the apprenticeship contract ceases when the apprentice is at fault, he or she will not be able to be an apprentice for a period of 2 years from the termination date of the apprenticeship contract.



## IMPORTANT – Public notice on submitting annual financial statements

We emphasize provisions of article 185, paragraphs 1 and 4 of Law 31/1990 regarding commercial companies:

- ☑ "(1) In the conditions set at Accountancy Law 82/1991, republished, the Board of Directors or the Supervisory Board, should submit annual financial statements and, if applicable, the report issued by *cenzori* or auditors to territorial offices of the Ministry of Public Finance, both in paper and electronic format or only in electronic format to which an extended electronic signature is attached."
- ☑ "(4) Commercial companies with **annual turnover of greater than RON 10 million should publish an announcement in the Official Gazette of Romania, Part IV-a**, by which submission of documents set at paragraph (1) is confirmed."

To comply with this obligation, we recommend submission of the following documents to the Official Gazette:

- ☑ accompanying letter which may be downloaded from
- ☑ [http://www.monitoruloficial.ro/docs/159\\_cerere%20publicare%20PIV.pdf](http://www.monitoruloficial.ro/docs/159_cerere%20publicare%20PIV.pdf)
- ☑ announcement prepared on computer, signed and stamped by a legal representative of the company. A model may be downloaded from
- ☑ [http://www.monitoruloficial.ro/docs/373\\_anunt.pdf](http://www.monitoruloficial.ro/docs/373_anunt.pdf)
- ☑ an appendix disclosing the number of characters in the announcement;
- ☑ power of attorney for the person who will submit the document for publication;
- ☑ document which proves payment of the fee for publication;
- ☑ company details (contact person, phone number).

The appendix disclosing the number of characters in the announcement may be obtained from a text editor and, for instance, if drafted using Microsoft Word:

- ☑ select the full text to be published (Ctrl+A);
- ☑ select Word Count on the bottom left bar (Tools);
- ☑ copy the displayed window by simultaneously pressing Alt+Print Screen;
- ☑ copy selected image with the *paste* command by pressing Ctrl+V simultaneously, and print.

### Where and how may the fee for publication be paid?

- ☑ at the cashier's desk located in the centre for public inquiries at the Official Gazette;
- ☑ by payment order upon receipt of invoice which is issued for documents transmitted by fax. The invoice also includes the price of one copy of the Official Gazette.

### How to obtain the Official Gazette of Romania, Part IV-a?

- ☑ at the library located in the centre for public inquiries at the Official Gazette;
- ☑ by e-mail for subscribers, on the publication date, in electronic format of the Official Gazette, Part IV-a;
- ☑ by mail or, in case of documents transmitted by fax, after printing.

## REMINDER – Valuation of monetary items in foreign currency

The May closing NBR exchange rates to use for valuation of monetary items (cash on hand, receivables, payables) denominated in foreign currency, as well as receivables and payables denominated in RON but pegged to a foreign currency for collection/disbursement are:

1 EUR = 4,7487 RON; 1 CHF = 4,2412 RON; 1 GBP = 5,3582 RON; 1 USD = 4,2591 RON.

## MONTHLY AGENDA

### EVERY DAY - DO NOT FORGET

- ☑ To complete the petty cash register (or print electronic version)
- ☑ To complete the purchase ledger and sales ledger
- ☑ To update electronic employee registers with information regarding labour contract inception/amendment or termination, if any

### AT MONTH END - DO NOT FORGET

- ☑ To complete the journal ledger
- ☑ To register contracts concluded during the month for services rendered by non-residents with tax authorities as per article 8 point 8 of the Fiscal Code
- ☑ To revalue monetary assets and liabilities in foreign currency (cash on hand, assets,



**Do not forget  
about the public  
notice obligation  
regarding the  
submission of  
financial  
statements**



liabilities) at the NBR exchange rate in force on the last banking day of the month

- ☑ To organise a stock count of inventories if the enterprise does not use a perpetual inventory system
- ☑ To issue final invoices for the current month.

#### TO COMPLY WITH REQUIREMENTS REGARDING VAT

- ☑ Mention the registration code under the scope of VAT on documents for EU business partners
- ☑ Check validity of registration code under the scope of VAT mentioned on invoices received
- ☑ Check amount of VAT disclosed on invoices received
- ☑ Check references related to VAT (e.g.: “reverse charge,” “operation not subject to VAT,” etc...)
- ☑ On invoices, write VAT amount received in case of reverse charge
- ☑ Maintain ledger of goods received
- ☑ Maintain ledger of non-transfer of goods
- ☑ Maintain non-current assets ledger
- ☑ Mention which exchange rate will prevail (NBR, commercial bank or Central European Bank) in contracts with foreign partners

#### TO CONSULT THE CALENDAR OF TAX LIABILITIES, VISIT THE FOLLOWING LINK ON ANAF WEBPAGE (IN ROMANIAN):

[https://static.anaf.ro/static/10/Anaf/AsistentaContribuabili\\_r/Calendar/Calendar\\_obligatii\\_fiscale\\_2019.htm](https://static.anaf.ro/static/10/Anaf/AsistentaContribuabili_r/Calendar/Calendar_obligatii_fiscale_2019.htm)

#### KEY HR FIGURES

2019 Contributions for dependent activities	Employer and beneficiary (for activities considered dependent) (% share)	Employee and dependent worker (% share)
Social security contribution (pension)	<ul style="list-style-type: none"> <li>• It is not due to normal working conditions</li> <li>• 4% for special work conditions</li> <li>• 8% for special work conditions</li> </ul>	25% (**)
Contribution to health insurance fund (calculated on gross income)	It's not due	10% (***)
Work insurance contribution	2.25% (*)	
Income tax		10% (****)
Disability Fund (for employers with more than 50 employees)	4 x minimum wage for every 100 employees	
The amount of a taxable meal tax in the sense of income tax	max 15,18 lei	
Minimum wage (gross) <b>from 1 January 2019</b>	<ul style="list-style-type: none"> <li>• 2,080 lei</li> <li>• 2,350 lei (for more than 1 year and functions requiring higher education)</li> <li>• 3,000 lei for employees on construction field</li> </ul>	
Diurnal (in the country) For employees of public institutions For private sector employees (* 2.5)	<ul style="list-style-type: none"> <li>• 20 lei</li> <li>• 50 lei</li> </ul>	

The below tax facilities are available for employers on the field of construction, when minimum 80% of turnover if from construction activities defined by law:

(\*)not due by employer

(\*\*) the social security owed by the employee is decreased to 21,25%

(\*\*\*) health insurance is not due by the employee

(\*\*\*\*) tax on income is not due for gross salaries between 3.000 lei and 30.000 lei.

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**Adding Value to Client's Business**

*APEX Team includes qualified professionals able to provide a full range of accounting and payroll services. Our consultants are ready to share their knowledge and experience gained whilst working in Romania as consultants for one of the Big 4 international companies, having many international companies acting in a wide range of industries as clients.*

*The team includes chartered accountants (Romanian Chartered Accountants Body and also ACCA) specialised in accounting for business entities, as well as a group specialised in payroll administration on behalf of the client.*

*APEX Team provides a full range of accounting services, payroll services, local tax compliance and tax advice, as well as services tailored to your company needs:*

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- Accounting and tax advice « on line »*
- Consulting and assistance in drafting transfer price files*
- Start up services*
- Organization of the accounting function*
- Assistance in implementation of ERP*
- Training*

