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## **ORDINANCE 4 dated 20 July 2017 to amend and complement Law 227/2015 on the Fiscal Code (Official Gazette 598/2017)**

The Ordinance amends the Fiscal Code regarding social contributions related to part-time labour agreements, these contributions being increased starting the 1<sup>st</sup> of August 2017 for income obtained in August 2017.

Currently, in the case of employers, taxation base for social insurance contribution is the amount of gross wages earned by individuals who obtain income from salaries or income similar to salaries for which individual contributions are owed.

By exception from the above rule, in the case of a monthly gross wage obtained according to an individual full-time or part-time labour agreement, **which is lower than the national minimum gross wage**, income taken into consideration for taxation base of social insurance contributions owed by employers or individuals/comparable entities is the national minimum gross wage in force during the month for which the social insurance contribution is owed, according to the number of working days of the month in which the labour agreement was active.

These provisions do not apply for employees finding themselves in one of the following situations:

- a) they are students, under 26 years of age, still studying;
- b) they are apprentices, according to law, under 18 years old;
- c) they are disabled persons for whom the law provides/recognises the right to work fewer than 8 hours per day;
- d) they are retirees having reached the age limit in the public pension system, except those retirees having met the age limit but benefiting from pensions based on certain laws/special statutes, as well as those accumulating pensions by having reached the age limit in the public pension system with the pension set by one of the pension systems that are not integrated in the public pension system;
- e) those obtaining during the same month salaries or income similar to salaries based on two or several individual labour agreements, and the cumulative monthly taxation base related to those agreements is at least equal to the national minimum gross wage;

To apply any of the above-mentioned exceptions, employers should request supporting documents from the individuals finding themselves in situations provided by letters a), b), c) and d) above, and in the situation provided by letter e). The application procedure is set by order of the Minister of Public Finance.

## **LAW 177 dated 18 July 2017 to approve Government Emergency Ordinance 3/2017 to amend and complement Law 227/2015 on the Fiscal Code (Official Gazette 584/2017)**

The Law approves GEO 3/2017 which brought changes to the Fiscal Code and introduces new amendments and complements. Main changes are briefly presented below:

### **CORPORATE TAX**

Owner associations set as legal entities and inhabitant associations recognised as owner associations, except those obtaining revenue from development of common property, are not included in the sphere of corporate tax. The change comes into force starting the 1<sup>st</sup> of January 2018.

Several complements are made regarding exemption from corporate tax for reinvested profit of taxpayers opting for corporate tax instead of micro-enterprise income tax,



Since 1 August 2017, a new wave of companies pass to the micro-enterprise tax regime

as a consequence of increasing the share capital up to RON 45,000. To apply this facility, take into consideration gross profit accumulated from the beginning of the quarter when the change in taxation regime was made and investments in assets mentioned in the article of Fiscal Code on corporate tax for reinvested profit for assets which were put into service during the quarter when the taxpayer opted for the corporate tax regime.

Starting the 1<sup>st</sup> of October 2017, new situations in which expenses and VAT is deductible are introduced for missing/damaged goods and other depreciable fixed assets that fall under the following categories:

- ☑ food for human consumption, approaching expiration date, if their transfer is carried out according to legal provisions on reduction in food waste;
- ☑ animal by-products not for human consumption, if their destruction/elimination is carried out according to legal provisions on reduction in food waste;
- ☑ agri-food products that became unsuitable for human or animal consumption, if expected to be transformed into compost/bio-gas or neutralized, according to legal provisions on reduction in food waste.

Unfortunately, provisions of Law 217/2016 on reduction of food waste have been suspended from application through GEO 45/2017. Therefore, we consider that the facilities mentioned above may not be applied until Law 217/2016 comes into force again.

### TAX ON MICRO-ENTERPRISE INCOME

**It is clarified that provisions of Title III Tax on micro-enterprise income prevails in relation to provisions of Law 170/2016 on specific tax.**

New amendments on application of tax on micro-enterprise income are introduced. **Starting the 1<sup>st</sup> of August 2017**, companies that should pay tax on micro-enterprise income are summarized below:

- ☑ those which by the 31<sup>st</sup> of December 2016 were paying corporate tax and were meeting conditions for specific tax (Law 170/2016);
- ☑ those which by the 31<sup>st</sup> of December 2016 obtained income of between EUR 100,001 and EUR 500,000, also meeting all other conditions for being a micro-enterprise.

The measure aims at giving priority to application of micro-enterprise regime. As a reminder, due to lack of clarification when regulations on the micro-enterprise regime changed effective the 1<sup>st</sup> of February 2017, companies which entered into the sphere of specific tax did not change to a micro-enterprise regime.

**As a consequence of this change**, taxpayers should update their fiscal status (*vector fiscal*) by the 25<sup>th</sup> of August 2017. By derogation from the usual submission deadline for form 100 (the 25<sup>th</sup> of July 2017), specific tax and corporate tax related to the period between the 1<sup>st</sup> of January and the 31<sup>st</sup> of July 2017 will be declared and paid by the 25<sup>th</sup> of August 2017. The specific tax will be calculated by multiplying the determined value by 0.58 (calculated as 212 days from the period 1 January-31 July 2017 divided by 365 days). Starting the 1<sup>st</sup> of October 2017, income from provisions and adjustments for depreciation or loss of value **constituted during the period when the Romanian legal entity was subject to micro-enterprise tax regime** are also deducted from the tax base. Previously, the deduction of this income was only permitted if they were non-deductible for corporate tax calculation purposes.

### TAX ON INCOME FROM SALARIES

**Medical services provided on subscription basis according to Law 95/2006, borne by the employer for its own employees are introduced in the category of non-taxable income** (only if during an entire year, the equivalent in RON of EUR 400 is not exceeded – and added to the value of voluntary health insurance premiums).

As a reminder, starting January 2017, voluntary health insurance premiums as well as medical services provided on a subscription basis, borne by employees, within the limit of the RON equivalent of EUR 400 are taken into consideration to calculate deductions from taxation base for tax on income from salaries.

The insurance contract in the form of **a subscription targets medical services provided to the employee and/or any other person under care**. A person under care for the medical services has the similar meaning as the persons considered under care when calculating the personal deduction for income tax.



## TAX ON INCOME FROM AGRICULTURAL ACTIVITIES, FORESTRY AND FISH BREEDING

Taxpayers obtaining income from independent activities for agricultural activities, forestry and fish breeding are exempted from income tax withholding if they prove they are fiscally registered for the activity by submitting an affidavit to income payers when the income is disbursed.

### TAX ON INCOME FROM OTHER SOURCES

A new exception is introduced regarding tax withholding. This exception applies to **income obtained by individuals from activities**, other than from: production, trade, services, liberal professions and intellectual property rights, as well as agriculture activities, forestry and fish breeding, **if those individuals prove that they are fiscally registered for their activity**, according to law, by submitting an affidavit to income payers, when income is paid.

It is necessary to emphasize that income from activities such as production, trade, services, liberal professions and intellectual property rights was never included in the category of income from other sources. For income obtained from these activities, legal provisions for income from independent activities were applied, not provisions on tax withholding (except income from intellectual property right).

### VALUE-ADDED TAX

#### Chargeable event

Starting the 1<sup>st</sup> of October 2017, **rental, leasing**, concession, agricultural rental services, grant of rights to real estate for a certain period of time in exchange for a gain of some type as well as life interest in or de facto rights to real-estate property are included in the category of services provided on a continuous basis, similar to providing natural gas, water, electric energy delivery and telecommunication services.

Delivery of goods/provision of services in these cases is carried out on **each date provided by the contract for payment** of goods delivered/services provided or, in case there is no contractual provision, **on the issuance date of the invoice**, but the settlement period should not exceed one year.

Previously, the chargeable event for rental, leasing, concession and agricultural rental services was strictly the payment date specified in the contract.

#### VAT adjustment for non-payment of invoices

Provisions of Methodological Norms are harmonised with those of the Fiscal Code regarding VAT adjustment in case of bankruptcy or application of insolvency law. Thus, in the case where the value of goods delivered or services provided may not be paid for due to bankruptcy of the beneficiary or as a consequence of applying a re-organisation plan which is admitted and confirmed by a court of justice, through which the debt-claim of the creditor is modified or eliminated, the adjustment is performed within 5 years from the 1<sup>st</sup> of January of the year subsequent to the year when the court decision regarding business dissolution procedure or confirmation of re-organisation plan provided by insolvency law was issued, under penalty of preclusion.

#### Registration under scope of VAT

Fiscal authorities do not register a taxable entity under the scope of VAT if the entity has or presents a high fiscal risk, according to criteria to evaluate fiscal risk, criteria which will be set by ANAF Presidential Order. Therefore, taxpayers will now know the guidelines which were previously criticized due to lack of transparency.

The provision regarding cancellation of registration under scope of VAT is eliminated if the company cannot justify its intention and capacity to carry out economic activity, being replaced by the phrase *presenting a high fiscal risk*

### LOCAL TAXES

Exemption from payment of and discounts on building tax, land tax and transportation tax are applied, starting the 1<sup>st</sup> of January of the financial year, to individuals/entities holding supporting documents issued by the 31<sup>st</sup> of December of the previous financial year and which are submitted to specialised departments of the local public authorities by the 31<sup>st</sup> of March.




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**The VAT  
registration  
procedure was  
changed**

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### **EMERGENCY ORDINANCE 45 dated 30 June 2017 to suspend Law 217/2016 on reducing food waste (Official Gazette 505/2017)**

The Ordinance suspends Law 217/2016 on reducing food waste until further re-analysis of application conditions and until legal and organizational framework are created that will allow implementation of these regulations.

### **LAW 164 dated 10 July 2017 to amend Law 279/2005 on apprenticeship employment and Law 335/2013 on performance of an internship by graduates of higher education structures (Official Gazette 544/2017)**

Among the amendments brought by Law 164/2017 we would like to mention:

- ☑ Duration of apprenticeship contract is changed, and it is set depending on the qualification level for which the apprentice is to prepare, without being less than:
  - a) 12 months, when apprenticeship is performed to achieve competencies appropriate for a level 2 qualification;
  - b) 24 months when apprenticeship is performed to achieve competencies appropriate for a level 3 qualification;
  - c) 36 months when apprenticeship is performed to achieve competencies appropriate for a level 4 qualification.
- ☑ The employer concluding an apprenticeship contract benefits, upon request and throughout the entire period of the contract, from a total amount of RON 1,125/month, granted from the unemployment insurance budget, up to the limit of allocated funds.
- ☑ The employer concluding an internship contract, as provided by the current law, benefits upon request from a total amount of RON 1,350/month, granted from the unemployment insurance budget, up to the limit of allocated funds.

The Law comes into force within 30 days from being published in the Official Gazette - the 10<sup>th</sup> of August 2017.

### **LAW 155 dated 29 June 2017 to approve Government Ordinance 22/2016 to amend Government Emergency Ordinance 77/1999 on certain measures to prevent payment default (Official Gazette 511/2017)**

The Law approves and amends GO 22/2016, that amends GEO 77/1999 on certain measures to prevent payment default.

According to amendments brought by Law 155/2017, private economic operators are exempted from preparing statements/reporting on debts with an overdue balance of more than 30 days. The reporting was initially provided by GEO 77/1999 amended by GEO 22/2016.

In this context, prior to publishing Law 155/2017, both private economic operators and public legal entities had the obligation to report outstanding invoices and chargeable debts with an overdue balance of more than 30 days to the Training Centre for Industry Personnel.

In order to settle potential mutual debts, report transmission should have been by e-mail to the centre. Prior to the effective date of this newly-enacted law, the procedure for electronic transmission had not been adopted, no e-mail address being announced. Basically, the normative provision had no application.

Starting with entry into force of Law 155/2017, the obligation to submit this reporting is only maintained for public legal entities. The electronic submission procedure and e-mail address to which the reporting should be sent are still unknown.

This law also introduces a follow-up procedure for compensation orders provided by Government Decision 685/1999.

Therefore, compensation orders have a unique number, their record being in the competence of the Structure for debt compensation within the Training Centre for Industry Personnel – CPPI Busteni.




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**The obligation to report overdue debts over 30 days by private law operators is repealed**

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**ORDER 995 dated 12 July 2017 to amend and complement Procedure to adjust errors found in annual financial statements and annual accounting reports submitted by economic operators and non-profit organisations, approved by Order of the Minister of Public Finance 450/2016 (Official Gazette 559/2017)**

The Order amends Procedure to adjust errors found in annual financial statements and annual accounting reports by adding a new type of material error which is subject to adjustment using this procedure. Therefore, preparation and electronic/digital submission of annual financial statements and annual accounting reports using erroneous data, determined inclusively by extracting and presenting information from a database, is considered a material error.

**ORDER 1964 dated 30 June 2017 to approve form 630 – Annual tax decision to set health insurance and social insurance contributions (Official Gazette 564/2017)**

The Order approves template and content of form 630, Annual tax decision to set social health insurance and social insurance contributions, as well as the annexes, situation on setting health insurance contribution and situation on defining social insurance contribution.

The Order sets monthly health insurance contributions for income obtained from independent activities, intellectual property rights, agricultural activities, forestry and fish breeding, rental activities, investments and/or other sources as well as pensions obtained from another State.

**ORDER 1886 dated 27 June 2017 to amend template, content and filing instructions for form 208 - Informative statement regarding income tax derived from transfer of private real estate property and form 209 - Statement regarding income derived from transfer of private real estate property approved by Order of the Minister of Public Finance and the Minister of Justice 1022/2562/2016 (Official Gazette 518/2017)**

The Order amends template, content and filing instructions for the following forms:

- Form 208, Informative statement regarding income tax derived from transfer of private real estate property, code 14.13.01.13/10i. It is used to declare information on transactions related to private real estate property through notarial procedures, concluded starting the 1<sup>st</sup> of February 2017.
- Form 209, Statement regarding income derived from transfer of private real estate property, code 14.13.01.13/10. The form is used to declare income obtained by individuals from transactions related to private real estate property through procedures other than the notarial and judicial means.

**ORDER 928 dated 26 June 2017 to approve Regulation to organise and operate Public Accounting Council (Official Gazette 512/2017)**

The Order approves Regulation to organise and operate Public Accounting Council, an independent monitoring body, created to ensure the convergence of national regulations and practices applied in the field of public accountancy with regulations applied within the European Union. The Council aims to increase confidence of users of information in financial statements and in good governance in the public sector.

**LAW 162 dated 2 July 2017 on statutory audit of annual financial statements and annual consolidated financial statements and to amend certain normative acts (Official Gazette 548/2017)**

The Law incorporates the new European Directive regarding statutory audits of individual annual financial statements into national law; specifically, consolidated annual financial statements.

The law defines:

- Objectives of statutory audit;
- modality to authorise, train and mutual recognition of auditors;
- professional ethics principles, independence, objectivity and professional confidentiality.




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**New situations  
when the  
procedure for  
correcting the  
financial  
statements should  
be applied**

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ality;

- ☑ international audit standards and audit report components;
- ☑ quality assurance;
- ☑ inquiries and sanctions;
- ☑ public surveillance and regulation agreements between Member States;
- ☑ statutory audit contracts and audit committee;
- ☑ international aspects.

The competent authority to accomplish attributions provided by the law is the Authority of Public Monitoring of Statutory Audit Activity (ASPAAS), subordinated to the Ministry of Public Finance.

ASPASS may assign to CAFR (Chamber of Financial Auditors of Romania), totally or partially, the fulfilment of attributions related to authorization of financial auditors and audit companies, registration of authorized audit companies in other Member States, withdrawal of authorization of financial auditor or audit company, organisation of professional competence exam and test to verify knowledge required to have access to internships, as well as to verify progress of internships.

### **EMERGENCY ORDINANCE 46 dated 30 June 2017 to amend and complement Government Emergency Ordinance 8/2009 on granting holiday vouchers (Official Gazette 506/2017)**

The ordinance amends GEO 8/2009 on granting holiday vouchers. Regulations specific to employees in the public sector are introduced. Thus, staff working for public authorities and institutions, as well as those hired by state economic operators may receive holiday vouchers having the value of a minimum gross wage for the country (RON 1,450). Each employee may receive one holiday allowance, at the value of RON 1,450, during the July 2017 to November 2018 period.

Issuance of holiday vouchers will be mandatory starting the 1<sup>st</sup> of December 2018. Holiday vouchers, however, will be granted depending on the budget of the respective institution/authority, with employers establishing when to grant the holiday allowance. We recall that for the remaining employers, the maximum amount which may be granted as holiday vouchers, is the equivalent of no more than six national minimum gross salaries per employee during a fiscal year.

### **ORDINANCE 6 dated 27 July 2017 to prorogue date when Law 151/2015 on insolvency of individuals comes into force (Official Gazette 614/2017)**

The Ordinance postpones the effective date of Law 151/2015 on insolvency of individuals until the 1<sup>st</sup> of January 2018. The law should have come into force on the 1<sup>st</sup> of August 2017.

### **DECISION 512 dated 20 July 2017 to set the 14<sup>th</sup> of August 2017 as a non-working day (Official Gazette 592/2017)**

The Decision sets the 14<sup>th</sup> of August 2017 as a non-working day for employees in the public sector.

This day will be recovered on the 19<sup>th</sup> of August or by extending the work schedule no later than through the 25<sup>th</sup> of August 2017.

Provisions do not apply to certain job categories where the activity cannot be interrupted due to production processes or the specifics of activity. Also, provisions do not apply to judicial and prosecution court staff involved in hearings scheduled on the 14<sup>th</sup> of August 2017 and neither to participants in these trials.

### **ORDER 983 dated 7 July 2017 to amend and complement methodological Norms to use and file payment order for the State Treasury (OPT) approved by Order of the Minister of Public Finance (Official Gazette 545/2017)**

#### **REMINDER – Valuation of monetary items in foreign currency**

The July 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 = 4,5598 lei; 1 CHF = 4,0065 lei; 1 USD = 3,8873 lei; 1 GBP = 5,0962 lei.



**The application of the insolvency law to individuals was delayed until January 1, 2018**



## AUGUST 2017 – 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, 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 for AUGUST 2017, visit the following link on ANAF webpage (in Romanian):**

[https://static.anaf.ro/static/10/Anaf/AsistentaContribuabili\\_r/Calendar/Calendar\\_obligatii\\_fiscale\\_2017.htm#aug](https://static.anaf.ro/static/10/Anaf/AsistentaContribuabili_r/Calendar/Calendar_obligatii_fiscale_2017.htm#aug)

### KEY HR FIGURES

| 2017 Contributions   | Employer and Beneficiary of activities considered dependent activities (% rate)  | Employee and provider of dependent activities (% rate) |
|--|--|--|
| Social security contribution (pension)<br><i>See note 1</i>  | 15.8% for normal working conditions<br>20.8% for particular working conditions<br>25.8% for special working conditions | 10.5%  |
| Health insurance fund<br>(based on gross salary) <i>See note 2</i>                                   | 5.2%   | 5.5%   |
| Medical leave contribution and health insurance allowance (based on gross salary)                    | 0.85%  |  |
| Unemployment fund (based on gross salary)  | 0.5%   | 0.5%   |
| Work accident and occupational disease fund (based on gross salary) <sup>2</sup>                     | 0.15% - 0.85% depending on CAEN code for main activity   |  |
| Contribution to fund to guarantee payment of salary liabilities (based on gross salary) <sup>3</sup> | 0.25% (only for employees under labour contract included for retired persons)  |  |
| Salary tax   |  | 16%  |
| Contribution for non-employment of disabled persons (for employers with more than 50 employees)      | 4 x 50% minimum gross salary for every 100 employees   |  |
| Minimum monthly gross salary   | RON 1450   |  |
| Luncheon voucher   | up to maximum RON 15.09  |  |
| Per diem (in Romania)  |  |  |
| Employees in the public sector   | RON 17.00  |  |
| Employees in the private sector (x 2.5)  | RON 42.50  |  |

Note 1: Basis for calculating social insurance contribution (CAS) is no longer capped after February 1, 2017 (applicable for both employer and employee contribution)

Note 2: Basis for calculating health insurance contribution (CASS) has been capped for the period 1 to 31 January 2017. As of February 1, 2017 capping the tax base is repealed returning to the regime applicable in 2016.



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*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.*

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- Recurring accounting assistance*
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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*