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## **EMERGENCY ORDINANCE 25 dated 29 March 2018 to amend and complete certain normative acts, as well as to approve certain fiscal and budgetary measures (Official Gazette 291/2018)**

The Ordinance amends the Fiscal Code, Fiscal Procedure Code and vehicle tax reimbursement procedure.

The main changes are briefly presented below:

### **FISCAL CODE**

#### **CORPORATE INCOME TAX**

- ☑ Taxpayers granting sponsorships must submit an informative statement on beneficiaries of sponsorship, related to the year when related expenses were recorded.

#### **TAX ON MICRO-ENTERPRISE INCOME**

- ☑ The possibility for a micro-enterprise to opt for corporate income tax regime is re-introduced. Thus, micro-enterprises having subscribed share capital of at least RON 45,000 and at least 2 full-time employees may only once opt to pay corporate income tax starting the quarter when these conditions are cumulatively met, the option being definitive for as long the conditions are met. The calculation and payment of corporate income tax will be performed taking into consideration income and expenses starting the respective quarter. This provision applies starting the 1<sup>st</sup> of April 2018.
- ☑ Micro-enterprises may benefit from fiscal credit facility for sponsorships carried out to support non-profit organisations religious units which are accredited providers of social services with at least one licensed social service, according to law. The fiscal credit of up to 20% of tax on micro-enterprise income owed for the quarter when the respective expenses were recorded may be granted.
- ☑ Micro-enterprises granting sponsorships have the obligation to submit informative statements on the beneficiaries of sponsorship.

#### **TAX ON INCOME**

- ☑ For individuals obtaining income based on sports activity contracts, concluded according to Law on sports and physical education, income payers have the obligation to calculate, withhold and pay taxes withheld, the tax being final. Tax is calculated by applying the 10% rate on gross income and is declared and paid by the 25<sup>th</sup> of the following month.
- ☑ Individuals may decide the destination of an amount representing 2% or 3.5% of tax on income as follows:
  - 2% to support non-profit organisations which are set up and operate according to law and religious units, as well as to grant private scholarships according to law; or
  - 3.5% to support non-profit organisations and religious units, which are accredited providers of social services with at least one licensed social service, according to law.

### **FISCAL PROCEDURE CODE**

- ☑ Taxpayers benefiting from instalment payment of taxes and applying for VAT reimbursement will be reimbursed after a tax inspection is carried out.
- ☑ In case of debtors not having goods in ownership, the difficult situation caused by temporary lack of funds and financial capacity to pay during the period when the instalment payment would otherwise be granted are mentioned by the debtor on



the application submitted for requesting instalment regime. (Taxpayer no longer has the obligation to submit a financial recovery and re-organisation programme.) The fiscal authority verifies and observes the difficult situation caused by temporary lack of funds from information presented by the debtor in the application and/or from information and/or relevant documents held by the fiscal authority.

- ☑ In the case of debtors not having goods in ownership, the instalment payment application may include a schedule with proposed instalment payment dates and amounts.
- ☑ For debtors not having goods in ownership, the instalment application is decided by the fiscal authority within 15 days from the registration date of application.
- ☑ In case of debtors not having goods in ownership, no principle agreement on instalment payment is issued.
- ☑ For debtors not having goods in ownership, interest expense on main fiscal liabilities for which the instalment payment applies is calculated and communicated at the end of instalment payment period or, depending on the case, when the validity of instalment payments ends.

#### **VEHICLE TAX REIMBURSEMENT PROCEDURE.**

- ☑ Vehicle tax reimbursement procedure will only be performed based on reimbursement application which must necessarily include elements regarding identification data of the taxpayer and vehicle for which the vehicle tax reimbursement is claimed.
- ☑ The applicant no longer has the obligation to enclose other documents, considering that the tax authorities have access to all necessary relevant information to rule on the application.
- ☑ Provisions also apply to applications currently in progress on the date when the Ordinance comes into force.

#### **LAW 88 dated 4 April 2018 to approve Government Emergency Ordinance 53/2017 to amend and complement Law 53/2003 on Labour Code.**

The Law approves and complements GEO 53/2017 which brought changes to the Labour Code.

It is clearly mentioned that individual labour agreement should be signed by employee **no later than the day prior to start of activity**. The same applies regarding the data transmitted to REVISAL (ITM).

For mobile and home-based employees, the employer should keep a record of the daily work schedule, provided according to conditions set through written agreement, depending on specific activity which is carried out.

A maximum threshold for contravention for employment of a person without signing an individual labour agreement (either with a suspended contract or outside the agreed working hours) is introduced. This will be sanctioned with a fine of RON 20,000 (RON 10,000 for working outside part-time agreed hours) for each identified person, but not exceeding the cumulative value of RON 200,000.

#### **LAW 87 dated 4 April 2018 to amend and complement Law 249/2015 on modality to manage packaging and packaging waste (Official Gazette 311/2018)**

The Law amends Law 249/2015 on modality to manage packaging and packaging waste. Among the most important changes, we mention the following:

- ☑ Thin (below 50 microns) and very thin (below 15 microns) plastic bags, with handle, will be forbidden for both being introduced or traded on the national market. Basically, starting the 1<sup>st</sup> of July 2018, it is forbidden to introduce these types of bags into the national market, and starting the 1<sup>st</sup> of January 2019, it is forbidden to sell these bags. The interdiction only applies to transport plastic bags with handles and not those without handles.
- ☑ The Law transposes provisions of Directive 2015/720/EU of the European Parliament and the Council dated the 29<sup>th</sup> of April 2015 to amend Directive 94/62/EC on reduction in use of thin plastic bags.
- ☑ Economic operators introducing biodegradable and compostable plastic bags into the national market are responsible for labelling this packaging, according to the Order of the Central Public Authority for Environmental Protection.

#### **New changes to the Labour Code**



## **LAW 86 dated 4 April 2018 to amend and complement Law 52/2011 on carrying out certain occasional activities performed by day labourers (Official Gazette 313/2018)**

Amendments are brought to the law regulating activities carried out by day laborers.

The maximum period during which a day labourer may carry out activities for the same beneficiary and for wine-growing activities (maximum 180 days/year) is extended. The standard period for which a day labourer may carry out activities for the same beneficiary is 90 days during a calendar year.

New domains where day labourers may carry out activities are introduced, such as:

- ☑ Restaurants – class 5610;
- ☑ Other food activities – NACE 5629;
- ☑ Bars and other beverage-serving activities – class 5630.

The primary legal framework has been created to establish agencies intermediating the demand and supply of day labour. The criteria and procedure for their accreditation will be approved through Government Decision.

Day labourers hired through an intermediation agency may carry out activities for the same employer for a period of 180 days during a calendar year (versus 90 days, the standard period).

Tax on income is owed for income obtained by day labourers. The tax on income is withheld by income payers, but social contributions are not assessed or due (CAS and CASS).

## **LAW 81 dated 30 March 2018 to regulate telework activities (Official Gazette 296/2018)**

The Law regulates method by which activities of an employee in the telework regime is carried out and applies to areas where it is possible to perform this type of activity.

Teleworking is defined as the manner to organise the work of an employee who, on a regular and voluntary basis, accomplishes the specific attributions of his/her job, occupation or profession in location different from the work place set by the employer, for at least one day a month, using IT equipment and digital communication technology. The employee who carries out his/her activity in this way is known as a telecommuter.

Telework activity is based on the convergence of will between the parties and is specifically provided by the individual labour agreement when signed for newly-hired persons or by addendum to those already having signed an individual labour agreement. An employee's refusal to carry out activities in the telework regime cannot represent a reason for unilateral change in the individual labour agreement and it cannot represent a reason for disciplinary actions.

To fulfil their attributions, telecommuters organise their work hours in agreement with the employer, according to provisions of the individual labour agreement, internal regulation and/or applicable collective labour agreement, according to law.

Upon request of the employer, along with the written approval of the full-time telecommuter, the latter may incur overtime hours.

The employer has the right to verify activity of the telecommuter, based on conditions provided by the individual labour agreement, internal regulation and/or collective labour agreement, according to law.

For telework activity, the individual labour agreement should include, in addition to standard provisions, the following:

- ☑ specific mention of the fact that the employee works in telework regime;
- ☑ period and/or days when the telecommuter carries out his/her activity at a workplace set by the employer;
- ☑ location/locations where the telework activity, agreed by both parties, takes place;
- ☑ work hours, during which the employer has the right to verify activity of the telecommuter and the specific method of verification;
- ☑ method to highlight the work hours performed by the telecommuter;
- ☑ responsibilities agreed upon by both parties, depending on location/locations where the telework activity is carried out, as well as responsibilities in the area of occupational health and safety;
- ☑ employer's obligation to insure transportation to and from the location where the teleworking takes place, transportation of materials the telecommuter uses in his



**Teleworking –  
carriving out the  
activity in a  
different location  
than the  
employer's work  
place**





- activity, depending on the case;
- ☑ employer's obligation to inform the telecommuter of the legal provisions, provision of applicable collective labour agreement and/or internal regulation, in the area of personal data protection, as well as telecommuter's obligation to comply with these provisions;
- ☑ measures taken by the employer to ensure that the telecommuter is not isolated from other employees and to ensure the possibility to meet with his/her colleagues on a regular basis;
- ☑ conditions in which the employer supports expenses related to telework activity.

The employer has the following specific obligations regarding occupational health and safety of telecommuters:

- ☑ to ensure the means related to IT and digital communication technology and/or safe work equipment necessary to carry out the activity, except for cases when the parties agree otherwise;
- ☑ to install, verify and maintain the necessary work equipment, except for cases when the parties agree otherwise;
- ☑ to ensure that the telecommuter is sufficiently and adequately trained in the area of occupational health and safety, especially work information and instructions, specific to location where the telework activity takes place and use of visual-screen/display equipment: when hired, when changing location of telework activity, when introducing new equipment and when introducing a new labour procedure.

The Law also contains other details, specific to telework activity, as well as related contraventions and fines. For example, failure to comply with the obligation to specifically mention that telework activity will be carried out in the individual labour agreement or in an addendum is sanctioned with a fine of RON 10,000 for each employee.

**30 May – the deadline for submission of 2017 Financial Statements**

**ORDER 1762 dated 5 April 2018 to approve methodological Norms regarding preparation and submission of quarterly financial statements and certain monthly financial reports by public institutions during the year of 2018, as well as to amend and complement other methodological Norms in the public accountancy area (Official Gazette 324/2018)**

The Order approves methodological Norms regarding preparation and submission of quarter financial statements and certain monthly financial reports by public institutions during the year of 2018.

**DECISION 207 dated 12 April 2018 to set the 30<sup>th</sup> of April 2018 as non-working day (Official Gazette dated 328/2018)**

The Decision sets the 30<sup>th</sup> of April 2018 as non-working day for employees in the public sector, the day being recovered on the 5<sup>th</sup> of May 2018 or by extending the work schedule no later than through the 11<sup>th</sup> of May 2018.

**INFO – Submission of 2017 financial statements/ accounting report to ANAF**  
**Wednesday 30 May is the last day to submit Annual Financial Statements as at 31 December 2017**

- ☑ for commercial companies, national companies, “regii autonome,” national institutes for research and development;
- ☑ for sub-units in Romania which belong to legal entities with headquarters abroad, except for sub units opened in Romania by resident companies in EEA States.

**Wednesday 30 May is the last day to submit to ANAF the annual accounting report for entities which have opted for a financial year different from calendar year as per article 27 (3) of Accountancy Law 82/1991 republished and for sub units opened in Romania by resident companies in EEA States**

Once the 2017 financial statements are submitted, the very last operations to complete accounting and fiscal evidence of the year are:

- ☑ Complete the Register of fiscal evidence;
- ☑ Maintain the Inventory Register;
- ☑ Check that the minutes of the inventory committee and decisions for writing off assets are signed;





- ☑ Archive the primary accounting documents (which usually ought to be kept for 10 years except for the list of the exceptions set by Order 2634/2015 to be kept 5 years). Retention period for financial statements has been reduced to 10 years per Law 259 (Official Gazette 506/2007). Mandatory accounting registers, i.e. the Journal Register, Inventory Register and General Ledger are kept within the enterprise for 10 years. Payroll statements are to be kept for 50 years.

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

The April 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 = 4.6589 RON; 1 CHF = 3.8917 RON; 1 GBP = 5.2837 RON; 1 USD = 3.8479 RON

### MAY 2018 – 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 MAY 2018, visit the following link on ANAF webpage (in Romanian):

[https://static.anaf.ro/static/10/Anaf/AsistentaContribuabili\\_r/Calendar/Calendar\\_obligatii\\_fiscale\\_2018.htm#mai](https://static.anaf.ro/static/10/Anaf/AsistentaContribuabili_r/Calendar/Calendar_obligatii_fiscale_2018.htm#mai)



**Do not forget the deadlines to submit the tax returns and to pay the taxes**

May 2018

| Sun | Mon | Tues | Wed | Thu | Fri | Sat |
|-----|-----|------|-----|-----|-----|-----|
|     |     | 1    | 2   | 3   | 4   | 5   |
| 6   | 7   | 8    | 9   | 10  | 11  | 12  |
| 13  | 14  | 15   | 16  | 17  | 18  | 19  |
| 20  | 21  | 22   | 23  | 24  | 25  | 26  |
| 27  | 28  | 29   | 30  | 31  |     |     |

### KEY HR FIGURES

| 2018 Contributions for dependent activities  | Employer and Beneficiary of activities considered dependent activities (% rate)                                     | Employee and provider of dependent activities (% rate) |
|--|---|--|
| Social security contribution (pension)   | Not owed for normal working conditions<br>4% for particular working conditions<br>8% for special working conditions | 25%  |
| Health insurance fund (based on gross salary)  | Not owed  | 10%  |
| Employment insurance contribution  | 2.25%   |  |
| Salary tax   |   | 10%  |
| Contribution for non-employment of disabled persons (for employers with more than 50 employees)    | 4 x minimum gross salary for every 100 employees  |  |
| Minimum monthly gross salary   | RON 1900  |  |
| Luncheon voucher   | Up to maximum RON 15.09   |  |
| Per diem (in Romania)<br>Employees in the public sector<br>Employees in the private sector (x 2.5) | RON 17.00<br>RON 42.50  |  |





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***Our Mission:  
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:*

- Bookkeeping*
- Recurring accounting assistance*
- Payroll computation and additional HR services*
- 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*