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Law 322/2021 for the completion of Law no. 227/2015 on the Fiscal Code (OG 1245/2021)

The law amends provisions of Fiscal Code regarding the deduction of sponsorships from profit/micro-enterprise tax.

Starting 1 January 2022, or the 2022-2023 fiscal year in case of legal entities that have opted for a financial year other than calendar year, taxpayers may use the allowable values calculated for sponsorships/patronage/private scholarships according to limits set by the Fiscal Code for micro-enterprise or profit tax, as the case may be, only if, after the deduction of unused amounts brought forward, positive values remain.

Amounts that are not deducted from current year micro-enterprise/profit tax are only carried over for sponsorships/patronage/private scholarships registered before 1 January 2022 or before beginning of the fiscal year 2022-2023, for legal entities that have opted for a financial year other than calendar year and the carry-over period can not past the year 2028.

Thus, we can conclude that sponsorships granted after 1 January 2022 (or, after the start of fiscal year 2022 - 2023, if applicable) are not carried forward to future tax years and any excess over the limits provided by Fiscal Code will be non-deductible. Amounts from sponsorships carried forward before 1 January 2022, or prior to the beginning of the modified fiscal year, will continue to be carried forward through 2028.

If the value of deductible sponsorship calculated according to Fiscal Code, reduced by amounts brought forward, as the case may be, has not been used in full, taxpayers may proceed to:

redirect the unused amount of **profit tax** for sponsorships and/or patronage acts or the grant of private scholarships, **within a maximum of 6 months from the submission date of the annual profit tax return**, by submitting a redirection form.

In the case of taxpayers who are members of a tax group, redirection can only be ordered by the responsible legal entity.

redirect **the unused micro-enterprise tax for sponsorships** and/or the grant of private scholarships, within the limit of the difference thus calculated for the entire fiscal year, within 6 months from the filing date for fourth quarter tax returns, by submitting a redirection form.

The obligation to pay the redirected amount from profit tax/micro-enterprise tax belongs to the competent fiscal body. Redirection of the profit tax value/micro-enterprise tax, for sponsorship of non-profit legal entities, including religious units, may only be performed if the beneficiary of the sponsorship is registered in the "Register of entities/religious units for which tax deductions are granted" as of the tax payment date by the tax authority. The procedure, model and content of the redirection form shall be established by order of the ANAF President.

This law takes effect starting 1 January 2022 and will not be retroactively applied.

Emergency Ordinance 130/2021 on some fiscal-budgetary measures, extension of certain deadlines, as well as for modification and completion of some normative acts (OG 1202/2021)

The ordinance brings multiple fiscal amendments, both to the Fiscal Code and to other normative acts. We present a summary of key features below.

FISCAL CODE

1. PROFIT TAX

The tax facility for early education expenses is again postponed. Thus, these measures are suspended at least until 31 December 2022. During the suspension period, expenses for the proper functioning of nurseries and kindergartens managed by taxpayers are considered social expenses and fall under the 5% limit applied to salary expense.

2. INCOME TAX AND SOCIAL CONTRIBUTIONS

Gift vouchers and social expenses

Starting with January 2022 income, the ceiling for non-taxable income **is increased from RON 150 to RON 300**, in the form of **cash and/or in-kind gifts, including gift vouchers**, offered by employers to employees and/or their minor children. This category includes the following:

- gifts given to employees, as well as those offered to their minor children, on the occasion of Easter, Christmas and similar holidays for other religious denominations;
- gifts given to female employees on the occasion of 8 March (Women's Day);
- gifts given to employees for the benefit of their minor children on the occasion of 1 June (Children's Day).

Social Security, Health Insurance and Work Insurance contributions are not due for the above situations.

If gift vouchers are issued in accordance with the law, in addition to the occasions and limits mentioned above, they will be subject to both income tax and compulsory social security contributions.

At the same time, provisions of Law 165/2018 on the grant of vouchers are modified. Thus, **it is forbidden to offer gift vouchers to categories of beneficiaries other than employees**. Consequently, **vouchers in the form of gift vouchers for marketing campaigns, market research, promotion in existing or new markets, protocol, as well as advertising and publicity are no longer allowed and are excluded from the category of income from other sources in the Fiscal Code**.

APEX Note: These measures are being taken to resolve disputes with tax authorities regarding tax treatment of gift vouchers. Basically, starting 1 January 2022, the scope of granting gift vouchers is limited to employees only.

Legal entities who have the status of employer, or are assimilated as an employer, have the obligation to submit declaration D112 related to Health insurance contributions - for natural persons who carry out an activity on the basis of individual employment contracts, employment relationships or a special status provided by law, **during their suspension from office**, in accordance with the law - is introduced.

Retirement income

As of **1 January 2022**, health contributions (CASS) are not assessed for individuals who have the quality of pensioner, for **pension income up to the amount of RON 4,000 per month, inclusive**, as well as for income from intellectual property rights.

Monthly taxable income from pensions is established by deducting the monthly non-taxable amount of **RON 2,000** and the health contribution due, if applicable.

The provision according to which the payer of pension income is obliged to determine the total amount of annual tax on pension income, for each taxpayer, is eliminated.

Payers of pension income will no longer be required to submit tax calculation and withholding tax returns to the competent tax authority.

The obligation of **natural persons who obtain income from pensions abroad**, for which **CASS** is due, to submit **the sole tax return**, in compliance with provisions of applicable European legislation in the field of social security, as well as agreements on social security systems to which Romania is a party, starting with pension payments paid in 2022, is introduced.

Social Security Contribution (CAS)

The **CAS** calculation basis **does not** include amounts representing **interest and update for the inflation index**, established on the basis of final and irrevocable court cases/final and enforceable judgments, including those granted according to the decisions of the first instance, law enforcement, or according to the law, as the case may be, granted in connection with salaries, pensions or other social security rights, including differences of them.



Gift vouchers and other types of vouchers can be offered to employees only!



Social health insurance contribution (CASS)

The following entities are included in the category, "Taxpayers/Income payers to the health insurance system:"

- National House of Public Pensions, through both territorial and sectorial pension houses, for persons who realize income from pensions, and
- Other entities that pay pension income.

3. VAT

Reduced VAT rate on home delivery

From 1 January 2022, the reduced VAT rate of **5% for the transfer of ownership for housing will apply as follows:**

- Previous conditions regarding application of the 5% VAT rate for delivery of dwellings purchased by individuals which have a maximum usable area of 120 square metres, excluding household annexes, whose value including land on which they are built **does not exceed the amount of RON 450,000** - excluding VAT - are maintained
- An extension of the application of the 5% VAT rate for delivery of dwellings with a maximum usable area of 120 sqm, excluding household annexes, whose value, including the land on which they are built, **exceeds the amount of RON 450,000, but does not exceed the amount of RON 700,000**, (excluding VAT), purchased by natural persons individually or jointly with another natural person or persons, is introduced. **The reduced rate applies to a single home that meets the above conditions.**

For both situations, the reduced VAT rate only applies to dwellings that can be inhabited as such at the time of delivery.

In order to monitor application of the facility, starting 1 January 2022 the "Register of housing acquisitions with a reduced VAT rate of 5%" is organized, in electronic format, based on information from contracts that have as its objective the transfer of ownership for dwellings provided above, authenticated starting with 1 January 2022. Public notaries will have several obligations to fulfil and formalities to complete.

Until the date on which the register becomes operational, the reduced VAT rate of 5% will be applied on the basis of the buyer's self-declaration, authenticated by a notary, showing that the condition regarding the purchase of a single 5% reduced VAT rate home is met. The declaration is kept by the supplier, and, subsequently, public notaries will complete the register with data related to declarations that have been authenticated.

Other operations with a reduced VAT rate

The category of operations for which the reduced VAT rate of 5% also applies includes the **supply of thermal energy during the cold season**, intended for the following categories of consumers:

- general population;
- public and private hospitals, public and private schools;
- non-governmental organizations regulated by law, as well as religious units;
- accredited social service providers, public and private, providing social services.

The cold season is the period of 5 months between 1 November of the current year and 31 March of the following year.

LAW 241/2005 for preventing and combating tax evasion

As of 1 March 2022, it is an offense to withhold/collect and not pay, within 60 days of the due date, taxes and/or contributions of withholding taxes listed in the annex to the ordinance. These offenses are punishable by imprisonment of between 1 to 5 years in prison or a fine.

New provisions are introduced on how to determine what punishment is applied for certain offenses of a fiscal nature, either imprisonment or a fine, depending on the amount of the damage and whether or not it is recovered.

National electronic invoicing system RO e-invoice

The provisions of GEO 120/2021 are completed as follows:

- For products with high fiscal risk established by order of ANAF's president, marketed in a business-to-business (B2B) relationship:



The ceiling for applying the 5% VAT rate on home sales has been increased to RON 700,000, with additional conditions





An employee can be remunerated with the minimum gross salary for a maximum period of 24 months calculated starting 1 January 2022

- ☑ between **1 April and 30 June 2022**, suppliers **may** send issued invoices to the national system regarding RO electronic e-Invoices, regardless of whether or not the recipients are registered in the RO e-Invoice Register;
- ☑ as of **1 July 2022**, **suppliers are obliged** to send issued invoices to the national system regarding the RO electronic e-Invoices, regardless of whether or not the recipients are registered in the Register RO e-Invoice.

A product with a high tax risk means a product in the market in which there is a high risk of tax fraud and evasion, and the list of these products will be periodically re-evaluated. The order of the President of ANAF will be issued within 30 days from the date this GEO enters into force (18 December 2021).

LABOR CODE

Provisions regarding application of minimum gross salary in the country, in the sense of limiting the time span of its application, in relation to an employee, for a period of maximum 24 months from the date the individual employment contract is signed, are completed. After this period, the employee will be employed with a basic salary higher than the minimum gross salary in the country.

According to amendments brought by GEO 142/2021 (presented below), the provisions also apply to employees paid the minimum gross guaranteed basic salary in the country, who has already concluded an individual employment contract, **the maximum period being 24 months calculated starting from 1 January 2022.**

LAW 165/2018 on granting vouchers

Vouchers may be issued exclusively in electronic format.

FISCAL AMNESTY

The deadline for submitting applications for cancellation of ancillary tax liabilities related to principal tax liabilities with maturities prior to 31 March 2020 is extended from 31 January 2022 to 30 June 2022.

National system for monitoring transport of goods: RO e-Transport

RO e-Transport is introduced, an IT system for the purpose of monitoring the transport of goods on the national territory. The application procedure will be established by order of the Minister of Finance, which will be issued within 30 days from the date GEO 130/2021 enters into force.

Emergency Ordinance 142/2021 amending and supplementing GEO 110/2017 on Support Program for Small and Medium Enterprises and Small Enterprises with Medium Market Capitalization - SME INVEST ROMANIA, for amending State Aid Scheme to support activity of SMEs in the context of the economic crisis generated by the COVID-19 pandemic, approved by art. II of GEO 42/2020, for amendment of art. III of GEO 16/2021 to amend and complete GEO 110/2017 on the Program for the support of small and medium enterprises and small enterprises with medium market capitalization - SME INVEST ROMANIA, as well as to amend and complete the State aid scheme for support of the activity of SMEs in the context of the economic crisis generated by the COVID-19 pandemic, approved by art. II of GEO 42/2020, as well as for amendment of art. 164 para. (2 ^ 1) and (2 ^ 2) of Law no. 53/2003 - Labor Code (OG 1249/2021)

The ordinance modifies provisions recently introduced by GEO 130/2021 (presented above) regarding the limitation of application of minimum wage in relation to an employee to a maximum of 24 months. More precisely, provisions of GEO 130/2021 mentions that the new rules are also applicable to already-concluded employment contracts, to avoid creation of unequal treatment between existing and newly concluded contracts. Moreover, employers should have modified individual employment contracts concluded at the level of the minimum wage and for cumulative periods greater than 24 months starting with the date GEO 130/2021 enters into force of, i.e., starting 18 December 2021.

For all these reasons, GEO 142/2021 establishes that the maximum period of 24 months for which the minimum gross salary can be granted to an employee is calculated from 1 January 2022, regardless of the seniority of these contracts.



Law 286/2021 for completing para. (3), art. 291 of Law no. 227/2015 regarding the Fiscal Code (OG 1168/2021) and Law 287/2021 for completing art. 291 para (3) of Law no. 227/2015 (OG 1168/2021)

The two laws introduce two new categories of operations subject to a reduced VAT rate of 5%. Thus, starting with 1 December 2021, the reduced VAT rate of 5% is applied for:

- ☑ delivery of firewood **to natural persons**, in the form of logs, stumps, vines, branches or the like, falling within CN codes 4401 11 00 and 4401 12 00.
- ☑ delivery of firewood, in the form of logs, stumps, vines, branches or the like, falling within CN codes 4401 11 00 and 4401 12 00, **to legal persons or other entities**, regardless of the legal organization form including schools, hospitals, medical dispensaries and welfare units.

Law 291/2021 for the amendment of art. 291 para. (3) letter a) of Law no. 227/2015 on the Fiscal Code (OG 1172/2021)

The law introduces a new category of operations subject to a reduced VAT rate of 5%, effective 1 January 2022 for the sale of books, manuals, newspapers and magazines in electronic format, except those that have, in whole or in part, video or music audio content and those intended exclusively or primarily for advertising.

Currently the 5% VAT rate only applies to sales of printed publications, those in electronic format being considered services.

Order 1942/2021 on amending the annex to the Order of the President of ANAF 1387/2021 for approving the Registration Procedure for the use of one of the special VAT regimes for taxable entities providing services to non-taxable entities, or selling goods from a distance, as well as for VAT return, according the provisions of art. 314, art. 315 and art. 315 ^ 2 of the Fiscal Code, in the situation where Romania is a member state of registration, as well as for modification of some procedural provisions (OG 1175/2021)

Government Ordinance 8/2021 supplemented the provisions which incorporated new rules applicable to electronic commerce starting 1 July 2021, allowing taxpayers who are based in Romania to apply the EU - One Stop Shop ("OSS") regime without waiving application of the special exemption scheme for small businesses (non-VAT payers). Thus, non-VAT payers who make long-distance deliveries to beneficiaries of non-taxable entities from other Member States may apply for registration in accordance with Art. 317 of the Fiscal Code if they opt for application of the EU - OSS regime.

The current order updates the registration procedure in order to use one of the special VAT regimes which are now in correlation with provisions of the Fiscal Code.

Order 1941/2021 regarding amendment of annex no. 2 to Order of the President of ANAF 631/2016 for approval of model and content of some registration/cancellation forms for VAT purposes (OG 1192/2021)

The order modifies the model and content of **form 093**, "Declaration of registration for VAT purposes/Declaration of mentions for taxable entities which have their registered office outside Romania, but are established in Romania through fixed establishments."

The form required updates for changes in the special VAT regimes for intra-Community distance sale of goods, electronic services, telecommunications and radio-TV.

Thus, the form now offers the possibility to register for VAT purposes to entities which do not have the obligation to register, but opt for the application of the special regime defined under Art. 315 - 'Special regime for distance sales of intra-Community goods, for domestic deliveries of goods by electronic interfaces which facilitate such deliveries and for services provided by taxable persons established in the European Union but not in the Member State of consumption.' The same form can be used to cancel VAT registration for persons who cease to apply the special regime.

The form also has the following in addition to the old version:

- ☑ the possibility of declaring a change in or maintenance of the fiscal period;
- ☑ exercising the option regarding application/termination of the application of provisions of art. 275 para. (2) and art. 278 para. (5) letter h) of the Fiscal Code (place of delivery for intra-Community distance sales of goods and place of supply of telecom-



New categories of operations subject to a reduced VAT rate of 5%



munications, broadcasting and television services or of services provided by electronic means to non-taxable persons);

- ☑ Re-registration for VAT purposes (as a result of the cancellation of VAT registration), according to art. 316 para. (12) of the Fiscal Code.

The declaration may also be submitted by electronic means of remote transmission.

Law 301/2021 on approval of GO 8/2021 for amendment and completion of Law no. 227/2015 on the Fiscal Code (OG 1195/2021)

The law amends and completes the Fiscal Code on income tax and the application of the tax consolidation system in the field of profit tax. The main features are presented below.

Fiscal consolidation system in the field of profit tax

Each member of the tax group calculates, quarterly or annually, **individual** profit tax in order to determine amounts to be deducted from the consolidated profit tax and communicates these amounts to the responsible legal entity, including the reduced profit tax according to GEO 153/2020.

Rules are defined regarding establishment of a legal reserve in the situation of applying the tax exemption facility for reinvested profit, at the level of the responsible legal entity and of the members of the tax group, as follows:

- a) the legal entity responsible for the tax group which deducts the amount related to exempted profit tax from total profit tax due by the tax group prior to consolidation communicates to each member its share of the amount deducted by the tax group upon consolidation;
- b) the portion communicated to each member is determined by multiplying the amount deducted at the level of the tax group by the ratio between amounts sent by each group member and total amounts received by the responsible legal entity from members of the tax group;
- c) the amount that is allocated as a distribution by the member of the fiscal group for the purpose of establishing a legal reserve, according to art. 22 para. (5), is that communicated by the responsible legal entity, according to letter a) above.

Income tax

Provisions regarding **income tax from the transfer of real estate from personal patrimony are completed**. Thus, when transferring the right of ownership and its division, by legal acts between living persons or by inheritance, on buildings of any kind, including related land and on land of any kind without buildings, the tax will be calculated based on the **value declared by parties** listed in the deed by which the property right or its division between receiving parties are transferred.

If **declared value is lower than the minimum value** established by a market study carried out by the chambers of public notaries with authorized valuation experts, the **tax is calculated based on the value established by the market study**.

Law 315/2021 on amending and supplementing Law no. 129/2019 for preventing and combating money laundering and terrorist financing, as well as for amending and supplementing some normative acts (OG 1240/2021)

The law changes the legal regulations regarding declaration of real beneficiaries as following.

The obligation to submit the annual declaration of real beneficiary for legal entities subject to obligation to register with the trade register is eliminated, unless there are changes or if there are entities registered in non-cooperating jurisdictions in the structure of associates/shareholders. For the latter case, the legal entities concerned will have to submit an annual statement on the actual beneficiaries within 15 days of approval of financial statements or whenever changes occur. It is expressly stated that the deadline for submitting this declaration is 90 days from the end of the state of alert.

As a novelty, a provision is introduced that the declaration obligation is also fulfilled by including in the constitutive act, at registration, identification data of real beneficiaries and the ways in which control over the legal entity is exercised. Subsequent modification of identification data of real beneficiaries does not establish the obligation to draw up an amendment to the constitutive act, because their declaration was previously fulfilled.



Agencia Națională de Administrare Fiscală

Further clarifications for profit tax consolidation system



Legal entities registered before 1 January 2022 submit a declaration regarding real beneficiary of the legal entity, which they update whenever a change occurs, in order to register in the Register of real beneficiaries of companies. This obligation is deemed to be fulfilled for legal entities that have submitted at least one declaration on the real beneficiary after the date this law enters into force.

The obligations of reporting entities shall be supplemented by the introduction of the provision that if they suspect or have reasonable grounds to suspect that certain transactions, operations or activities whose object is represented by goods derived from the commission of criminal offenses or related to terrorist financing and involves persons where there is a discrepancy they are required to submit a report for suspicious transactions exclusively to the National Office for Prevention and Control of Money Laundering. The submission deadlines and the content of the declaration are reworded:

- ☑ In the event of a change in the identification data of the beneficial owner, the declaration shall be submitted within 15 days of the date on which it occurred.
- ☑ Self-declaration of legal representative of the legal entity shall include identification data of beneficial owners, namely name, surname, date and place of birth, personal numerical code, series and number of the identity document, citizenship, domicile or residence, and the ways in which control is exercised over the legal entity.
- ☑ Declaration of real beneficiary may be in the form of a private signature or electronic form and may be sent to the Trade Register Office by electronic means, electronically signed, or by postal and courier services or at the counter of the Trade Register Office, in person or by a representative according to legal provisions.
- ☑ Declaration regarding real beneficiary can also be given in front of the representative of the trade register office or it can be submitted, personally or through a representative, having a certain date, given by the notary public or attested by a lawyer.
- ☑ The non-observance by the legal representative of legal entities of the obligation to submit the declaration regarding identification data of the real beneficiary constitutes a contravention and is sanctioned with a fine from RON 5,000 to RON 10,000. The report of finding of the contravention is communicated to the trade register office, where, in turn, non-submission of the declaration entails the dissolution of the company is recorded. If, within 30 days from the date of application of the sanction, representative of the legal entity has not submitted the declaration regarding identification data of the real beneficiary, at the request of the National Office of the Trade Register, the court or, as the case may be, the specialized court may dissolve the company. The cause of dissolution may be removed before any substantive conclusions can be drawn.

Emergency Ordinance 140/2021 on certain aspects of contracts for the sale of goods (OG 1245/2021)

The ordinance incorporates the provisions of Directive (EU) 2019/771 of the European Parliament and of the Council of 20 May 2019 on certain aspects of contracts for the sale of goods into national law, amending Regulation (EU) 2017/2394 and Directive 2009/22 and repealing Directive 1999/44/EC.

Basically, the ordinance establishes the new legal framework applicable from 1 January 2022 on the sale of goods to consumers. At the same time, the provisions of Law 449/2003 on the sale of products and their associated guarantees are repealed.

The ordinance deals in particular with conformity of goods subject to the sales contract, the measures to be taken by the sellers in case of non-conformity of the products, but also the product warranty regime, including goods with digital elements.

Among the most important aspects, we mention:

- ☑ **The guarantee of conformity** remains fixed at two years, but the defect is presumed only in the first year. In practice, the Ordinance takes the minimum required by the Directive. A guarantee of durability may be agreed by contract is stipulated as follows: “where a manufacturer offers the consumer a guarantee of durability for certain goods for a certain period of time, the manufacturer is liable to the consumer for the repair or replacement of goods over the entire durability period;”
- ☑ The notion of seller also extends to craft and professional activities;
- ☑ Seller will be able to carry out the repair or replacement of non-compliant goods,



The declaration regarding the real beneficiary is no longer submitted annually, with certain exceptions!



based on the commercial guarantee, within a maximum of 15 days;

- ☑ The conformity criteria for a product are extended and the compatibility and interoperability criteria are introduced

The new provisions apply to contracts concluded after 1 January 2022.

Law 318/2021 of the State Social Insurance Budget for 2022 (OG 1239/2021)

The law approves the State Social Insurance Budget for 2022.

Among other things, the new level of average gross earnings used to substantiate the state social insurance budget for 2022 is defined, being RON 6,095 (from RON 5,380 for 2021).

Please note that this indicator affects various tax limits, aid and facilities, such as:

- ☑ Technical unemployment during the state of emergency - 75% of average gross salary in the country;
- ☑ Days off allowances for parents during suspension of school due to weather conditions or other extreme situations, as well as for suspension or limitation of schooling due to the coronavirus epidemic - 75% of average gross salary in the country;
- ☑ Coverage of the value of tourist and/or treatment services, including transport, provided by the employer for their own employees and their family members - capped at the average gross salary in the country
- ☑ The amount of death benefits set at the average gross national salary upon death of the insured person or pensioner, or at half the gross national salary for death of a family member of the insured person or pensioner.

Law 317/2021 of the state budget for the year 2022 (OG 1238/2021)

Emergency Ordinance 131/2021 on amending and supplementing certain normative acts, as well as for the extension of certain deadlines (OG 1201/2021)

The ordinance makes amendments and completions to regulations regarding the grant of holiday vouchers to public institutions.

Thus, the annual grant of holiday vouchers is extended for the 2022 – 2026 period, in the amount of **RON 1,450** for an employee per year.

Affiliated units accept holiday vouchers granted by public institutions **only if they do not register outstanding fiscal obligations to the general consolidated budget** of the nature of those administered by ANAF, **which are older than 90 days**.

In the case of holiday vouchers issued on any type of media, the affiliated units are obliged, starting with **1 April 2022**, to update the **RO electronic e-Invoice national system** for invoices issued to the voucher holders. Also, the affiliated units are obliged to send invoices issued to the recipients according to the Fiscal Code. Failure by the affiliated unit to comply with these provisions constitutes an offence and is punishable with 2 to 5 penalty points.

Holiday vouchers for the years 2022-2026 are issued only on electronic media.

The validity period of the holiday vouchers issued between 1 January 2019 and 31 December 2020, regardless of the medium, is extended until 30 June 2022.

Order 1984/2021 for approval of Procedure for exemption from payment of social health insurance contribution of individuals who do not have the quality of taxpayer to the social health insurance system, as well as model and content of form 603, "Declaration on own responsibility for exemption from payment of social health insurance contribution" (OGJ 1205/2021)

The Order approves the Procedure for exemption from payment of the social health insurance contribution (CASS) of natural persons who do not have the quality of taxpayer to the social health insurance system. At the same time, the order approves the model and content of form 603, "Declaration on own responsibility for exemption from the payment of social health insurance contribution".

The procedure applies to individuals who have sickness and maternity insurance with a social security system of another EU Member State, the EEA, the Swiss Confederation and the United Kingdom of Great Britain and Northern Ireland, or in countries with which Romania has bilateral agreements of social security with provisions for maternity sickness insurance, based on domestic legislation of the respective states, which produc-



The new level of the average gross salary is **RON 6,095**



es effects on the Romanian territory, and who prove the validity of the insurance, not owing CASS for the realized income, according to provisions of art. 153 para. (2) of the Fiscal Code. Individuals can be:

- ☑ Romanian citizens domiciled or residing in Romania;
- ☑ foreign citizens and stateless persons who have applied for and obtained the extension of the right of temporary residence or are domiciled in Romania;
- ☑ citizens of Member States of the European Union, the European Economic Area, the Swiss Confederation and the United Kingdom of Great Britain and Northern Ireland, who have applied for and obtained the right to stay in Romania for a period of more than 3 months;
- ☑ persons from Member States of the European Union, the European Economic Area, the Swiss Confederation and the United Kingdom of Great Britain and Northern Ireland who fulfil conditions of frontier worker and are employed or self-employed in Romania and usually return abroad on a daily or at least once-a-week basis.

Individuals who fall into one of the above situations keep supporting documents for exemption from CASS payment, during the limitation period of the right of the tax authority to establish tax claims. Supporting documents can be:

- a) Portable A1 document;
- b) TR/R1 - Applicable law form;
- c) PM/RO101 - Certificate on applicable law;
- d) MD/RO101 - Certificate on applicable law;
- e) E104 - Certificate of aggregation of insurance periods, work or residence or equivalent in structured electronic documents SO41 - Response to the request for confirmation of periods - type of risk insured: sickness and maternity;
- f) TR/R2 - Totalization of insurance periods for persons entitled to benefits in case of illness and maternity;
- g) QUE/ROU 104 - Certificate of aggregation of insurance periods in Romania or of residence in Québec;
- h) SRB/RO 104 - Certificate on aggregation of insurance periods.

Order 2021/2021 on the competence to administer tax obligations owed by natural persons who carry out economic activities independently or exercise free professions (OG 1225/2021)

The order defines the competence to administer tax obligations owed by natural persons who carry out economic activities independently or exercise free professions. Thus, it is the responsibility of the central fiscal body in whose territorial area the fiscal domicile of the natural person is located.

At the same time, the Order approves the Procedure for administering fiscal obligations owed by natural persons who carry out economic activities independently or exercise free professions.

The provisions shall enter into force on 1 January 2022.

Order 1940/2021 regarding the amendment of annex to the Order of the President of the National Agency for Fiscal Administration no. 3631/2015 for approval of the territorial administration competence (OG 1179/2021)

Decision 1276/2021 on amending annex to GD 2,139/2004 for approval of Catalogue on classification and normal useful life of fixed assets (OG 1226/2021)

The decision amends GD 2139/2004 which regulates the Catalogue on the classification and normal useful life of fixed assets. The amendments concern fixed assets specific to the national defence system, public order and national security.

Regulation 4/2021 on reporting data and statistical information to the National Bank of Romania (OG 1163/2021)

The new regulation applies from 1 January 2022 and refers to reporting statistical data and information to the NBR.



**The new form 603
used for the
exemption from
health insurance
payment
obligation in
Romania**



INFO - EXCISE 2022

The level of excise duties starting 1 January 2022 is increased for both harmonized excise goods and non-harmonized excise goods, due to the update for increased consumer prices in the last 12 months, calculated in September of the year preceding the application, compared to October 2014 - September 2015, officially communicated by the National Institute of Statistics by 15 October.

The updated list is published on the website of the Ministry of Finance.

Order 2028/2021 on amending the Order of the President of ANAF 2921/2016 for approval of Tax Registration Procedure, ex officio or at the request of another authority administering tax claims, of tax law subject who have not fulfilled their tax registration obligation, according to law (OG 1230/2021)

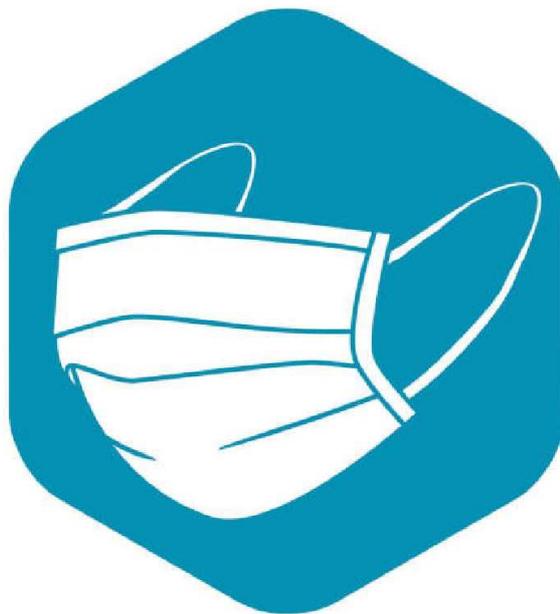
Order 1459/2021 for amending and supplementing Methodological Norms on use and completion of the payment order to the State Treasury (OPT) and the electronic multiple payment order (OPME), approved by the Order of the Minister of Public Finance no. 246/2005, and for amending and supplementing annex to the Order of the Minister of Public Finance no. 3139/2017 on approval of the issuance of government securities intended for the population, through operative units of the State Treasury, within the Treasury Program (OG 1164/2021)

INFO - Closing exchange rates for the year 2021

The exchange rates communicated by the National Bank of Romania (NBR) which are used at the end of 2021 for valuation of the monetary assets and liabilities expressed in foreign currency (cash, receivables, debts), as well as for valuation of receivables and liabilities denominated in RON, whose settlement made depends on the exchange rate of a currency are:

1 EUR = RON 4.9481; 1 CHF = RON 4.7884; 1 GBP = 5.8994 RON; 1 USD = 4.3707 RON

**PLEASE KEEP YOUR
DISTANCE**



AND WEAR A MASK

APEX Tax Group

The community of professionals in taxation and accounting to which we invite you to join



APEX Tax Group is a community of professionals in taxation and accounting to which we invite you to join. This group includes experts from the APEX Team, experts in various areas of taxation and accounting and other members who join this community of professionals. You have access to a group of experts from whom you can find the most knowledgeable advice.

Why APEX Tax Group?

Because we want to establish and strengthen a close relationship with you, the professionals. We want to discuss monthly the latest information of a fiscal or accounting nature. Because we know that it is much easier for you to attend a presentation, to exchange opinions and ideas with professionals, than to go through many written materials, laws, blogs, articles and other various sources.

Because we want to form a community that you feel you belong to.
Because it helps you to have professionals as debate partners.

APEX Tax Group is the solution that makes it easy for you to communicate with experts at minimal cost. A solution that keeps you constantly informed about the latest news.

**Become member of
APEX Tax Group
and be part of the
community of
professionals!**

What is the topic of the meetings?

APEX Tax Group meetings will focus on the following topics

- Synthesis of the main fiscal and accounting news published in the last month, accompanied by analyses and comments
- Discussions on the main deadlines of the period, reminders of some fiscal and accounting aspects of interest for the respective period
- Information from both official and unofficial sources, draft regulations, tax inspections, cases and various comments.

How often does the group meet?

There are monthly online meetings that may last between 1.5-2.5 hours.
The meetings are organised in Romanian language.

How can I subscribe?

Please access www.apex-team.ro/taxgroup or contact APEX Team:

Email: office@apex-team.ro or taxgroup@apex-team.ro

Phone: 0318 092 739 / 0745 202 739

How much does it cost to access the APEX Tax Group?

We proposed two forms of access:

- Ad-hoc access, only when you choose to participate
- Access in the form of a subscription, when you participate in each monthly meeting. The annual subscription provides a substantial reduction of the regular price.

All members and subscribers of APEX Tax Group benefit of special discounts on other presentations or events organised by APEX Training Center.



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, 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 from ANAF (in Romanian):

https://static.anaf.ro/static/10/Anaf/AsistentaContribuabili_r/Calendar/Calendar_obligatii_fiscale_2022.htm

KEY HR FIGURES

2022 Contributions for dependent activities	Employer and beneficiary (for activities considered dependent) (% share)	Employee and dependent worker (% share)
Social security contribution (pension)	Nothing due for normal working conditions 4% for special work conditions 8% for special work conditions	25% (**)
Contribution to health insurance fund (calculated on gross income)	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	maximum 20.09 lei (starting with October 2021)	
Minimum wage (gross) starting 1 January 2022	2.550 lei 3.000 lei for employees in the construction field	
Diurnal (in the country) For employees of public institutions For private sector employees (* 2.5)	20 lei 50 lei	

The below tax facilities are available for employers on the field of construction, when minimum 80% of turnover is 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 monthly realised gross salaries up to 30.000 lei.

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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*
- Audit*

