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EMERGENCY ORDINANCE 181 dated 22 October 2020 on some fiscal-budgetary measures, for the amendment and completion of some normative acts, as well as for the extension of some terms (Official Gazette 988/2020)

The ordinance brings several amendments and completions to fiscal regulations, presented by subject below:

EXTENSION OF SOME TERMS

The suspension of applicability of interest and penalties for unpaid tax obligations whose maturity has expired after the start of the state of emergency, is extended through 25 December 2020, inclusive. The measure also applies to late payment installments, while at the same time provisions of the Fiscal Procedure Code related to maintaining the validity of installments are suspended.

Suspension of the start of forced execution by fiscal bodies is also extended until 25 December 2020. The period until which, in certain specific situations, VAT refunds will be made with subsequent performance of tax inspections is extended until 25 January 2021, inclusive.

SIMPLIFIED TAX DEBT SCHEDULING

Taxpayers who have unpaid principal/ancillary tax liabilities, for which maturity occurred after the start of the state of emergency, may request rescheduling of these debts for a period of up to 12 months. The scheduled obligations will be all obligations registered in the fiscal attestation certificate, issued upon submission of the application. In order to benefit from rescheduling, the debtor must cumulatively meet the following conditions:

- a) submit an application to the fiscal body, by 15 December 2020 inclusive, under the sanction of forfeiture. Upon request, the debtor may attach a proposal of scheduled payments;
- b) not be in bankruptcy proceedings;
- c) not be in dissolution;
- d) outstanding fiscal obligations on the date the state of emergency declared (16 March 2020) not registered and not extinguished on the date the fiscal attestation certificate is issued;
- e) no liability according to legislation regarding insolvency and/or joint liability has been established, according to provisions of art. 25 and 26 of the Fiscal Procedure Code. By way of exception, if the acts by which the liability has been established are final in the system of administrative and judicial remedies, and the amount for which the liability has been drawn has been extinguished, the condition is considered fulfilled.

Debtor must also have submitted all fiscal declarations, according to the fiscal vector, on date the fiscal attestation certificate is issued.

In order to maintain rescheduled payments, the taxpayer must pay, according to provisions of the GEO, any tax liability arising after the communication date of the rescheduling decision. Deadlines by which the subsequent tax obligations must be paid differ depending on the nature of the obligation.

Interest for the tax obligations scheduled for payment is due for the period for which installment payments have been granted, starting with 26 December 2020. The interest rate is 0.01% for each day of delay.

For delays in payment of installments or interest, penalties of 5% are due on:

- amount remaining unpaid from the installment agreement, representing main fiscal obligations and/or ancillary fiscal obligations scheduled for payment, including interest due during the scheduled payment period, as the case may be;
- differences in fiscal obligations left unpaid after settlement of VAT returns with negative balances and reimbursement option.

Rescheduled payments are not granted for amounts lower than RON 500 in the case of individuals, 5,000, in the case of legal entities.

TAX TREATMENT FOR COVID TESTS PROVIDED BY EMPLOYERS

The Fiscal Code is completed with provisions regarding the fiscal treatment of tests for detecting COVID-19. They are non-taxable at the level of the employee, both from the perspective of income tax and social contributions, provided they are made at the initiative of the employer to ensure safety and health at the workplace during the state of emergency or alert period.

RESTRUCTURING BUDGETARY DEBTS

The period over which taxpayers may benefit from restructuring existing budget debts as of 31 July 2020, according to provisions of GO 6/2019, is extended. Thus, a new period was defined over which the fiscal body must be notified of the intention to benefit from restructuring debts to the State budget, this being 1 November 2020 – 30 March 2021. The previous notification period had expired on 30 September 2020.

At the same time, the second deadline referring to submission of the restructuring request (accompanied by a plan and prudent private creditor test) was extended through 30 June 2021 (previously 31 December 2020).

CASH REGISTERS

Provisions to sanction contraventions for non-connection of electronic fiscal cash registers to the ANAF system are suspended until 31 December 2020. This suspension is addressed to large taxpayers who had the obligation to ensure a connection of cash registers to the ANAF system by 30 September 2020. The deadline for small and medium taxpayers is 31 January 2021.

LOCAL TAXES

Local councils are given the opportunity to decide various measures to reduce or exempt local taxes through 2 December 2020, as follows:

- reduction of up to 50% of tax on non-residential buildings owned by natural or legal persons, used in their own economic activity or given by rent/loan/other means in order to carry out economic activities by other natural/legal persons, if, during the state of emergency/alert, the owners or occupants of the buildings were obliged by law to completely interrupt their economic activity or hold an emergency certificate certifying partial interruption of economic activity.
- If this reduction is adopted, and to benefit from the reduction, building owners are required to submit an application accompanied by a declaration on their own responsibility by 21 December 2020. The declaration on their own responsibility refers to fulfillment of certain specific conditions.
- exemption from payment of monthly building taxes, if building occupants were obliged, according to the law, to completely interrupt their economic activity during the state of emergency and/or alert.

ACTIVITY-SPECIFIC TAX

Taxpayers who are payers of activity-specific tax will be exempted from the specific tax for the period 26 October – 31 December 2020. Basically, taxes for the period between 26 October and the last day of the year are deducted from the specific tax for 2020. This tax decrease is in addition to the previous reduction, established by GEO 99/2020, of 90 days from 25 June 2020, but also, if applicable, specific tax for the period in which companies totally or partially ceased their activity during the state of emergency, which can be up to 60 days.

Taxpayers who, by the date the emergency ordinance enters into force, submitted the specific tax return for the first half of 2020, will have to submit corrective statements. According to Law 170/2016, the specific tax is due by companies in the field of tourism and public catering, which have turnover of over EUR 1 million.



COVID tests performed at the initiative of the employer are not taxable for employees



DECISION 864 dated 14 October 2020 for amendment and completion of Methodological Norms for application of Law no. 227/2015 on the Fiscal Code, approved by GD 1/2016 (Official Gazette 956/2020)

The decision modifies and completes Norms for application of the Fiscal Code. This update of the Norms comes from the successive amendments brought to the Fiscal Code since 2018 until now and from the need to align the Norms with provisions of the Fiscal Code.

Significant developments in VAT regulations are presented below.

The quality of natural person as a taxable person from the point of view of VAT when trading real estate

In case of natural persons who carry out two real estate transactions during a calendar year, meaning deliveries of land and/or buildings, when calculating the ceiling for registration for VAT purposes, the second real estate transaction will be taken into account, regardless whether this is a taxable or VAT-exempt transaction.

If the sum of the two deliveries exceeds the VAT exemption ceiling, the natural person has the obligation to register for VAT purposes within 10 days from the end of the month in which the ceiling was exceeded. We remind that VAT exemption ceiling is RON 300,000.

Previously, if the second delivery was VAT-free, such as the case of old buildings or non-buildable land, this second delivery was not taken into account when determining the ceiling.

Delivery of goods

Transfer of food for human consumption does not constitute delivery of goods if it is made at any time in the last 10 days of validity, until the date of minimum durability, made according to Law 217/2016 on reducing food waste.

Goods granted free of charge in order to comply with compensation obligations provided by GEO no. 189/2002 and goods that a taxable entity grants free of charge to its employees which are related to carrying out economic activity in optimal conditions (such as, for example: hygienic-sanitary materials in order to prevent disease) do not constitute delivery of goods.

Value coupons (vouchers)

Explanations are introduced regarding the VAT regime applicable to vouchers. The format of value coupons may be physical or electronic.

Vouchers without all the necessary elements to determine the tax due are known, such as meal vouchers, holiday vouchers, gift vouchers and the like, are considered multi-purpose vouchers.

Instruments that give the holder the right to a discount on the purchase of goods or services, but do not give the right to receive these goods or services, are not considered vouchers.

Adjusting the tax base in case of bankruptcy

In cases where the value of goods delivered or services rendered cannot be collected as a result of bankruptcy of the beneficiary, regarding persons applying VAT on collection, the non-exigible tax related to supply of goods or services will be canceled.

Reduced VAT rates

Regarding application of reduced VAT rates, the following are amended:

- ☑ clarifications on application of reduced VAT rate for supply of drinking water are deleted. Starting 1 January 2019, drinking water is included in the 'water supply and sewerage services' category;
- ☑ provisions regarding application of reduced VAT rate of 5% for accommodation, restaurant and catering services are aligned;
- ☑ some clarifications are added regarding the reduced VAT rate of 5% for delivery of housing as part of social policy, including the land on which they are built:
 - the requirement of a buyer's declaration on application of the reduced VAT rate is eliminated;
 - The usable area of the dwelling for which the selling price is subject to the reduced VAT rate must be registered in the cadastral documentation annexed to the sale-



The Norms for application of Fiscal Code have been aligned with the amendments introduced in recent years in Fiscal Code



purchase deed concluded in accordance with the law. Previously, the aim was to include the surface of the land on which the house is built in the cadastral documentation.

Tax-exempt transactions include:

- ☑ credit management and/or credit guarantee operations carried out under syndicated credit agreements;
- ☑ administration of occupational pension funds, by assimilating them in the category of special investment funds.

Deductible tax adjustment for capital goods

A new provision is introduced regarding adjustment of the deductible tax for capital goods, the right of an entity to make a positive adjustment after re-registration for VAT purposes, for one-fifth or one-twentieth of the tax initially deducted, for each year of the period in which the VAT code had been annulled and in which the capital goods were used to carry out operations with the right of deduction. Taken into account is the fact that during the period in which the entity had the code canceled, these entities had the obligation to pay VAT for the operations performed.

Turnover for application of the VAT exemption regime for small enterprises

Explanations for determining turnover levels in order to apply the VAT exemption regime are deleted. Thus, the authorities comply with a ruling of the EU Court of Justice according to which turnover which serves as a reference for the purpose of applying the special VAT scheme for small enterprises must be determined on the basis of all amounts, excluding VAT, collected or to be collected by the taxable entity, regardless of how these amounts will actually be taxed.

Registration for VAT purposes

Rules on obtaining a VAT code are amended, after GEO 69/2020 established that the registration for VAT purposes upon incorporation or later, by option, is no longer conditioned by the fulfilment of some risk criteria. At the same time, in order to establish unitary rules in the case of entities requesting registration for VAT purposes after starting the activity, it was established that the registration be considered valid starting with the 1st of the month following the month in which registration is requested.

The amended Annex 5 details the criteria for assessing tax risk in the procedure for assessing the intention and ability to carry out economic activities in the scope of VAT by entities whose VAT registration has been cancelled where the entities subsequently request registration.

EMERGENCY ORDINANCE 182 dated 22 October 2020 for completion of GEO 147/2020 on granting free days for parents to supervise children, in case of limitation or suspension of teaching activities that require the actual presence of children in schools and early childhood education units, as a result of the spread of the SARS-CoV-2 coronavirus, as well as art. 6 of GEO 132/2020 on support measures for employees and employers in the context of the epidemiological situation caused by the spread of the SARS-CoV-2 coronavirus, as well as to stimulate employment growth (Official Gazette 993/2020)

The ordinance brings completions and clarifications to provisions regarding the grant of some days off for parents in order to supervise children in case of limitation or suspension of teaching activities.

At the same time, the ordinance clarifies the grant of a subsidy of RON 2,500 for teleworkers. Thus, companies that did not record the transition of employees to telework in the Employees Register – “Revisal” within the period of time provided by law, on the day before the amendment, at the latest, cannot receive the state aid of RON 2,500 granted for each teleworker.

The subsidy is granted in the situation where at least 15 days of telework were worked during the state of emergency. Therefore, employers who did not prepare the documents for switching to telework and who did not report telework in that period are not eligible for this subsidy.



Clarifications on the subsidy for teleworkers



LAW 213 dated 30 September 2020 on amendment and completion of Law no. 53/2003 - Labor Code (Official Gazette 893/2020)

The law brings amendments to the Labor Code regarding the amicable settlement of individual labor disputes through a conciliation procedure, as well as the method to organize the activity of human resources and payroll.

With regard to labor disputes, either party may be assisted by an external consultant specializing in labor law or by a representative of the trade union of which he/she is a member of his/her choice in the following situations:

- ☑ at the time of negotiating, concluding or amending the individual employment contract;
- ☑ during conciliation of an individual labor dispute.

Basically, the law replaces the term “third party” with that of “external consultant specialized in labor law” or “union representative”.

The law promotes the attempt to resolve amicable labor disputes. The employment contract may include a clause establishing an amicable settlement, through the conciliation procedure, of any individual labor dispute. The conciliation procedure involves an external consultant specialized in labor law, in conditions of neutrality, impartiality, confidentiality and with the free consent of the parties. The external consultant is chosen by the parties and may be a lawyer, an expert in labor law or, as the case may be, a mediator specialized in labor law, and his/her fee will be borne according to the agreement of the parties. If, after conciliation, a complete solution is not reached, any party may apply to the competent court for a full settlement of the individual labor dispute.

The law also introduces additions regarding disciplinary investigations, the employer having to appoint a person, designate a commission or use the services of an external consultant specialized in labor law. Procedural aspects regarding performance of a disciplinary investigation are also presented.

The law states that the activity of human resources and payroll may be organized in the following ways:

- ☑ the employer assumes its specific duties;
- ☑ the employer designates one or more employees to whom these tasks are assigned in the job description
- ☑ the employer contracts specialized external services, coordinated by an expert in labor law.

EMERGENCY ORDINANCE 163 dated 24 September 2020 for completion of art. 159 of Law no. 263/2010 on the unitary public pension system, as well as adoption of measures in the field of insurance of persons in the public pension system (Official Gazette 883/2020)

The ordinance establishes how persons who do not have the quality of pensioner and who meet certain conditions, may retroactively pay their social insurance contribution for periods up to a maximum of 6 years prior to the month of concluding the insurance contract, periods in which those persons have not made contributions or assimilated contribution periods in the public pension system or in a separate, unintegrated social insurance system, in the country, in the member states of the European Union or in other states with which Romania applies international legal instruments in the field of social security.

The procedure that an individual must follow in order to contribute retroactively to social security is:

- ☑ concluding a social insurance contract with the competent Territorial Pension House by 1 September 2021. The conclusion of the contract must be made personally, through a guardian, curator or its agent, appointed by special power of attorney;
- ☑ completion of a declaration on one's own responsibility stating that, during the period entered in the social insurance contract for which the insurance is requested, the individual fulfills the following cumulative conditions:
 - did not have the quality of insured person in the public pension system or in other systems not integrated into it;
 - did not have the obligation to be insured in the public pension system;



**Amendments to
the Labor Code on
amicable
settlement of labor
disputes**





o at the date of concluding the social insurance contract, he/she is not a pensioner. The payment of the social insurance contribution due is made in a single installment, in installments, or in monthly installments, until 31 August 2021, by any means of payment provided by law, including cash, at the cashier of the competent Territorial Pension House. If, on 31 August 2021, the social security contribution due is not paid in full, the contribution period shall be in accordance with payments made.

ORDER 2876 dated 21 October 2020 for establishing the indexed nominal value of a meal voucher for the second semester of 2020 (Official Gazette 978/2020)

For the second semester of 2020, starting with October 2020, the nominal value of a meal ticket cannot exceed the amount of RON 20.01.

ORDER 1352/2810 dated 3 September 2020/1 October 2020 on establishment of the value of the indexed monthly amount granted in the form of nursery vouchers for the second half of 2020 (Official Gazette 978/2020)

For the second half of 2020, starting with October 2020, the value of the monthly amount granted in the form of nursery vouchers is RON 470.

ORDER 2753 dated 16 September 2020 for establishing the value of the indexed amount to be granted in the form of cultural vouchers for the second half of 2020 (Official Gazette 907/2020)

For the second half of 2020, the value of the amount granted monthly, or occasionally, in the form of cultural vouchers is a maximum of RON 160/month, up to a maximum of RON 320/event.

ORDER 2814 dated 1 October 2020 for the approval of model, content, method of submission and management of "Declaration on the obligations to pay social contributions, income tax and nominal records of insured persons" (Official Gazette 1005/2020)

The order approves the model and updated content of form 112, "Declaration on the obligations to pay social security contributions, income tax and nominal records of insured persons," as well as its annexes.

ORDER 2989 dated 30 September 2020 on approving Procedure for implementing the measure, "Micro-grants awarded from non-reimbursable external funds," under the state aid scheme established by GEO 130/2020 on some measures for granting financial support from non-reimbursable external funds, related to the 2014-2020 Operational Competitiveness Programme, in the context of the crisis caused by COVID-19, as well as other measures in the field of European funds (Official Gazette 902/2020)

ORDER 3083 dated 19 October 2020 on approval of Procedure for implementing the measure, "Grants for working capital awarded to SMEs," under the state aid scheme established by GEO 130/2020 on some measures for granting financial support from non-reimbursable external funds, related to the 2014-2020 Operational Competitiveness Programme, in the context of the crisis caused by COVID-19, as well as other measures in the field of European funds (Official Gazette 965/2020)

ORDER 2809 dated 1 October 2020 on the types of tax receivables that may be paid online through bank cards using the National Electronic Payment System (Official Gazette 949/2020)

The order completes the types of tax receivables that may be paid online through bank cards through the National Electronic Payment System (SNEP).

The provisions apply to both resident and non-resident individuals identified fiscally based on their personal numerical code or the fiscal identification number for the types of fiscal receivables provided in annex no. 1, as well as to legal entities for payment of the types of fiscal receivables provided in annex no. 2.

The maximum unit value of a meal ticket is RON 20.01



ORDER 3666 dated 7 October 2020 on approval of model and content of forms and documents used in verification of documentation (Official Gazette 938/2020)

The Order approves the model and the content of forms and documents used in the document verification activity, regulated in Title VI, Chapter V, "Document Verification," of Law no. 207/2015 on the Fiscal Procedure Code:

- Request for documents/information;
- Invitation to the hearing;
- Provision of measures following the document verification;
- Tax decision on the main tax obligations established as a result of the document verification.

ORDER 3632 dated 5 October 2020 on establishment of powers to carry out document verification (Official Gazette 921/2020)

The order establishes the powers of fiscal verification of a natural person when he/she does not fulfil his declaratory and payment obligations regarding income tax.

These people are:

- Civil servants with fiscal inspection attributions within the territorial structures subordinated to the Regional General Directorates of Public Finances, as well as within the DGAMC;
- Civil servants from the General Directorate for Fiscal Anti-Fraud.

These persons have the right to carry out document reviews in order to correctly establish the tax situation of individuals.

INFO – Valuation of monetary items in foreign currency

The October 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 = 4.8743 RON; 1 CHF = 4.5595 RON; 1 GBP = 5.4111 RON; 1 USD = 4.1768 RON.

PLEASE KEEP YOUR DISTANCE



AND WEAR A MASK

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_2020.htm

KEY HR FIGURES

2020 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 20.01 lei starting with 1 October 2020	
Minimum wage (gross) from 1 January 2020	2,230 lei 2,350 lei (for more than 1 year and functions requiring higher education) 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 if from construction activities defined by law:

(*)not due by employer

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

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

(****) tax on income is not due for 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*