



Tax & Legal Highlights

Romania

Combined Nomenclature for 2018

The European Commission has recently published in the Official Journal the Combined Nomenclature applicable starting 1 January 2018. As a consequence, starting this date, it will be necessary to use the new CN codes for customs operations, Intrastat declarations and for operations performed on the basis of the customs and fiscal authorizations issued based on the CN codes in 2017.

The new Combined Nomenclature may include new classifications for your company's products. If you import / export goods to / from the European Union as of January 2018, you will need to use the new CN codes in the goods declaration process.

The NC modification brings changes not only for customs operations, but also for reports in the Intrastat statistical system. More specifically, in the case of tariff codes used for goods traded between Member States of the European Union.

Tax&Legal Highlights

In addition, the holders of customs and tax authorizations issued based on codes valid in 2017 (e.g. authorizations for the use of suspensive customs regimes) are also affected.

What to do?

To avoid any administrative and operational inconveniences as of 1 January 2018 (e.g. extended stay of goods in customs), we recommend that you adjust these CN codes as soon as possible.

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On October 3 2017, Article 29 Working Party , in view of ensuring harmonized application of the Regulation regarding Protection of Personal Data starting by 25 May 2018, adopted the following guidelines:

- **Guidelines on the application and setting of administrative fines for the purpose of the Regulation 2016/679**
- **Guidelines on personal data breach notification under Regulation 2016/679**
- **Guidelines on automated individual decision-making and profiling for the purposes of Regulation 2016/679**

Guidelines on the application and setting of administrative fines for the purpose of the Regulation 2016/679

The document discusses the framework and the manner of applying administrative fines in accordance with the provisions of the European Regulation no. 2016/679, which is intended to help supervisory authorities to identify the most appropriate criteria to impose appropriate administrative fines and also to reach a decision on applying various other sanctioning measures (such as temporary or permanent limitation of processing).

Thus, if there is a breach of the Regulation, the competent supervisory authority should identify the most appropriate measures in relation to that situation, taking into account, inter alia, the following principles:

- Infringement of the Regulation should lead to the imposition of "equivalent sanctions".
- Like all corrective measures chosen by the supervisory authorities, administrative fines should be "effective, proportionate and dissuasive".
- The competent supervisory authority will make an assessment "in each individual case".

- A harmonized approach to administrative fines in the field of data protection requires active participation and information exchange among supervisory authorities.
- The Guidelines establishes how general conditions should be interpreted in order to impose administrative fines under the Regulation and a number of different elements that should also be considered, taking into account the criteria set out in these conditions, as follows:
 - the nature, gravity and duration of the infringement;
 - the intentional or negligent character of the infringement;
 - any action taken by the controller or processor to mitigate the damage suffered by data subjects;
 - the degree of responsibility of the controller or processor taking into account technical and organizational measures implemented by them pursuant to Articles 25 and 32;
 - any relevant previous infringements by the controller or processor;
 - the degree of cooperation with the supervisory authority, in order to remedy the infringement and mitigate the possible adverse effects of the infringement;
 - the categories of the personal data affected by the infringement;
 - the manner in which the infringement became known to the supervisory authority, in particular whether, and if so to what extent, the controller or processor notified the infringement;
 - where measures referred to in Article 58(2) have previously been ordered against the controller or processor concerned with regard to the same subject-matter, compliance with those measures;
 - adherence to approved codes of conduct pursuant to Article 40 or approved certification mechanisms pursuant to Article 42;
 - any other aggravating or mitigating factor applicable to the circumstances of the case, such as financial benefits gained, or losses avoided, directly or indirectly, from the infringement.

For the entire article, please click [here](#).

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Customs duties reduced by 50% on imports of GoPro Hero cameras and similar products

Recently, the European Commission repealed a Regulation that classifies GoPro Hero cameras at a tariff code that stipulated a 7% duty on imports into the European Union. As a result of the reclassification, the applicable customs duty was reduced by 50%.

Recently, the Order no. 2482/2017 on the procedure and the conditions under which the tax warehouses, registered consignees, registered consignors and authorized importers, are authorized, entered into force. It establishes the membership structure and competence of the Commissions for authorization

Tax&Legal Highlights

of the operations of products subject to harmonized excise duties. More precisely:

- authorization is carried out by the regional directorates general of public finance, through the regional commissions for the authorization of operators of products subject to harmonized excise duties;
- by exception, authorization of tax warehouses for exclusive wine production carried out by taxpayers, other than large and medium-sized taxpayers, small distilleries as well as small independent beer factories, is made through the territorial commissions for the authorization of operators of products subject to harmonized excise duties, set up at the level of the territorial structures of the regional directorates general of public finance;

What to do?

We recommend that you review the impact of the legislation changes on your activity.

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Amendments to the Fiscal Code

The Law no. 227/2015 regarding the Fiscal Code has been amended by the Emergency Ordinance no. 79/2017, published in the Official Gazette no. 885/10.11.2017.

The changes will enter into force starting with 1 January 2018. The main amendments include:

- Limited deductibility of interest and other costs economically equivalent to interest for corporate income tax purposes
- Amendments of the conditions applicable to the microenterprise regime
- Decrease of the salary income tax to 10%
- Mandatory social security contributions rates due by the employee and the employer for salary income were amended
- Amendments of the mandatory social security contributions rates and of the computation base cap related to independent activities. Moreover, we believe that CJEU decision opens the right to deduct VAT also for other cases where VAT deduction was blocked because the supplier had its VAT number cancelled.

The amendments and new provisions brought by the Emergency Ordinance no. 79/2017 related to corporate income tax and microenterprise are the same as the proposed provisions detailed in our Tax Alert issued on 3 November 2017. Considering their importance, we reiterate them, as follows:

Title II Corporate income tax

The Corporate Income Tax title transposes the EU Directive 2016/1164 laying down rules against tax avoidance practices that directly affect the functioning of the internal market (Anti-Tax Avoidance Directive).

The Directive implements certain recommendations included in the BEPS Action Plan. The amendments will enter into force starting with 1 January 2018:

Limited deductibility rules for interest and other costs economically equivalent to interest

- The current deductibility rules provided by article 27 from the Tax Code on the interest and foreign exchange net losses are repealed. Instead, new rules on the limitation of deductibility of interest and other costs economically equivalent to interest are introduced in line with the Directive.
- The deductibility limitation does not cover only interest expenses and foreign exchange net losses any longer, but also items defined as "borrowing costs".
- Hence, exceeding borrowing costs (the difference between borrowing costs and interest income and other economically equivalent income) higher than the deductible limit of EUR 200,000, will be subject to limited deductibility up to 10% of the base computation.
- The base computation is determined as the difference between income and expenses recorded as per the accounting rules, out of which the non-taxable income are subtracted, and the corporate income tax expenses, exceeding borrowing costs and tax depreciation amounts are added back.
- If the base computation is negative or zero, the exceeding borrowing costs are non-deductible in the respective tax period, with the possibility of reporting them without time constraint over the next tax years.
- By exception, exceeding borrowing costs may be fully deductible if the taxpayer is an independent entity (does not form part of a financial accounting consolidated group and has no associated enterprise nor permanent establishment).
- Starting with 1 January 2018, the tax value of assets will not include interest costs and other economically equivalent costs.
- Interest and foreign exchange net losses carried forward as per article 27 in force as at 31 December 2017 will be subject to deductibility as per the rules which will be introduced starting with 1 January 2018.

For entire article, please click [here](#).

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