



## Tax & Legal Highlights

### Romania

#### **The list of the most relevant amendments to the Methodological Norms for the Application of the Tax Code**

**Amendments and additions to the Methodological Norms for the application of the Tax Code in respect of corporate income tax, micro-enterprise income tax, income tax, statutory social contributions and value added tax have been recently published in the Official Monitor.**

Amendments and additions to the Methodological Norms for the application of the Tax Code in respect of corporate income tax, micro-enterprise income tax, income tax, statutory social contributions and value added tax have been recently published in the Official Monitor.

The amendments bring clarifications and examples regarding the implementation of the measures introduced through the Government Emergency Ordinance no. 84/2016, focusing in particular on the following aspects:

#### **Title I General provisions**

A new section on the VAT treatment of transactions made by / from taxable persons having the VAT registration code canceled was introduced. Specifically, clarifications and examples were brought on:

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- the exercise of the seller's deduction right for purchases made prior to re-registration (allowed even in the absence of a VAT code mentioned on the invoice);
- the method of computing the VAT collected (by the gross-up method when the price mentioned in the contract does not include VAT and the VAT cannot be cashed-in from the client or when the contract does not provide any reference in relation to VAT) as well as
- aspects regarding the reporting of the collected VAT (related forms) and the issuance of correction invoices after re-registration.

### Title II – Corporate income tax

- The tax exemption for the profit invested in the acquisition of the right to use the software is applied for those programs acquired and used starting with January 1, 2017.
- Examples were provided regarding the method through which non-taxable income from the sale of participation titles is computed, as well as in regards to the determination of the management costs related to non-taxable income.
- Loans obtained directly or indirectly from international development banks, Romanian or foreign credit institutions, non-banking financial institutions are not included in the calculation of the borrowed funds.
- It is specifically mentioned that non-deductible interest expenses to be carried forward can be deducted on an unlimited period of time.
- Clarifications regarding the recovery of tax losses for taxpayers who apply the taxing system on microenterprise revenues have been introduced, depending on the period when the losses were incurred.

The amendments are approved by the Government Decision no 284/2017 for the amendment and completion of the Methodological Norms of the Law no 227/2015 regarding the Tax Code, published in the Official Monitor no. 319 / 04.05.2017.

Please read the entire article, by accessing the following [link](#).

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**Companies will be able to communicate with the tax authorities starting with June via the Virtual Private Space service**

**Legal entities and entities without legal personality will be able to communicate with tax authorities via the Virtual Private Space (SPV) service as of June 1, according to an MFP order.**

**At the same time, the list of documents that can be communicated through the SPV will be extended, including tax returns.**

Legal entities and entities without legal personality will be able to communicate with tax authorities via the Virtual Private Space (SPV) service as of June 1, according to an MFP order.

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The communication procedure has been amended to extend the service for legal entities and entities without legal personality through Order 660/2017 of the Minister of Public Finance.

**SPV registration**

- The individuals can register directly on the platform based on their personal identification data.
- The legal entities and the entities without legal personality are directly identified through legal representatives or qualified persons by using qualified certificates.
- Accessing SPV is optional. Once done, the communication of the administrative-tax acts will be done exclusively through the online platform.

**Documents and information that can be communicated through the SPV**

The main type of documents communicated via are:

- Documents issued and communicated by MFP / ANAF: assessment decisions, tax administrative acts issued by tax inspection bodies, enforcement documents and acts issued in the enforcement of the law (notifications, notices), payment obligations statement, tax certificate, tax record etc.
- Documents issued and communicated to MFP / ANAF: tax returns, various requests, complaints, petitions, audiences requests, information on the application of tax legislation, etc.

In addition, if the taxable person accessing the SPV and its partners gave their consent when filling Local Sales and Purchases List (Form 394) to make the information public to business partners, the users may also review the data provided by the List.

The users can also automatically receive relevant information from the tax authority, resulting from their risk analysis, so that they can comply voluntarily.

Transitional measures are applicable until 30 June 2017, namely 30 June 2018.

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**New provisions of the public-private partnerships and concessions legislation-an analysis by Reff & Associates**

**PPP and Concessions – the new legislation brings material improvements, but further clarifications are still needed**

The legal framework governing public private partnerships and concessions of works and services was significantly reshaped in 2016. In this respect, in May 2016 the new legislative package on public procurement and concession of works and services was enacted, replacing the previous regulations, including former PPP Law no. 178/2010. Also, in December 2016 the new PPP Law was adopted.

The law on concession of works and services is now fully functional and concession projects may be launched, having full legal support, as the methodological norms for the application of the law were enacted in December 2016. On the other hand, projects under the new PPP Law will still have to wait, as the methodological norms for the implementation of the law are still under discussions, although the deadline for issuing them, respectively 90 days as of the entering into force of the PPP law, was exceeded.

Concessions of works and services, as well as the public private partnerships, are instruments allowing the cooperation between the public and private sector for the purpose of developing public interest objectives or performing public interest services.

Concession is part of the extended category of public private partnerships, taking into account the definition of the latter by legal scholars and the European Commission guidance. In this respect, the public private partnership mechanism, in its extended sense, as the European Commission has mentioned in the "Green Paper on public-private partnerships and Community law on public contracts and concession", is based on various forms of cooperation between public and private sector, which "ensure the funding, construction, renovation, management or maintenance of an infrastructure or the provision of a service". However, at a national level, the distinction between concessions of works and services and public private partnerships is made.

By accessing these instruments, the public partner aims to overcome the budgetary constraints that impede on the public sector, temporarily transferring in the private sector the burden of performing the necessary investments for public interest projects. At the same time, the private partner have an opportunity to invest in profitable projects, considering that both PPP law and the law on concession of works and services provide that projects shall allow the recovery of the investment as well as a reasonable profit margin. Profitability is sustained through availability payments made by the public partner, granted under the condition that the services and works performed by the investors comply with certain quality parameters.

At European level, the concession and public private partnerships were and still are often used for the implementation of a wide range of public interest projects in fields that cover road infrastructure, airports, public transportation, healthcare infrastructure, construction of administrative buildings or supply of water and sewerage services, national defense and education services. The total value of public private partnership projects implemented in the European Union between 2000 and 2015, amounted to Euro 270 billion according to the European Commission's data. Good

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practice examples can be found in France, Germany, Great Britain, Netherlands, Spain or Portugal.

The entire article can be read by accessing this [link](#)

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