

Special Tax Alert

31 May 2018

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Approval of the Methodological norms for applying the Law no. 227/2017 regarding the Tax code

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Title II - Corporate income tax

- Clarifications regarding the application of the deductibility rules of sold receivables (value of the sold receivables is deductible within a threshold of 30%) are brought for the period 1.01.2018 - 26.03.2018. The provisions are applicable for cases when the amounts representing the assignment price of receivables, the value of the sold receivables or other elements are not booked as income/expenses according to the applicable accounting rules.
- Further clarifications are also provided in respect of the deductibility rules of interest expenses / exceeding borrowing costs for the purpose of determining the fiscal result of the year comprising both periods from 2017 and 2018 (in case of taxpayers which opted for a tax year different from the calendar year).
- With regard to the new rules on the deductibility of exceeding borrowing costs, it is mentioned that the exemption regarding the fiscal value of assets (i.e., does not include interest costs and other equivalent costs from an economic perspective) applies to assets acquired or produced after 1 January 2018.

Title III - Micro-enterprise tax

- According to the newly published provisions, micro-enterprises fulfilling the conditions imposed by the law (i.e., subscribed share capital of at least RON 45,000, at least 2 employees) may opt to become a corporate income tax taxpayer in any quarter after 1 April 2018, which is the date when this option entered into force.
- In order to apply the tax rate on the revenues of a micro-enterprise (1% and 3% respectively), clarifications are introduced regarding the number of employees in the case of the individual labor contracts concluded according to the special laws, as well as the suspended contracts, according to the law.

Title IV – Income tax

Income from salaries and assimilated to salaries

- Amendments were brought to the salary income tax exemption available for certain types of employees (e.g., those working in research & development, seasonal workers, disabled employees, etc.).
- The salary income definition provided under the Methodological norms of the Tax code was extended.
- The Methodological norms were correlated with the Tax code's provisions for the voluntary health insurance premiums, including the services provided as a subscription.
- Some procedural provisions to apply the exemption from paying income tax for Romanian tax non-resident individuals were repealed.

Independent activities and other types of income

- The provisions of the Tax code were correlated with the provisions of the Methodological norms to establish the self-imposed regime for: (i) individuals obtaining income from independent activities or in an association without juridical personality, (ii) individuals obtaining income from Romania and/or from abroad.

- The deadline to submit the unique tax return for individuals who obtain income from independent activities, intellectual property rights, agriculture, forestry, rental income during the fiscal year was introduced.
- Amendments were brought to the reporting obligations of the individuals who obtain income from agriculture activities in an association without juridical personality and examples of the income tax calculation were introduced.
- Amendments were brought to the exchange rate used in reporting the rental income from personal property.
- Amendments were brought regarding the tax withholding for intellectual property rights – definition, taxation methods, deadlines to declare for the individuals who obtained this type of income during the last year, reporting methods for the income payers.
- The Methodological norms were correlated with the Tax code's provisions as regards the bonus granted to individuals for anticipated payments of the annual estimated income tax and examples of the calculation were introduced.
- The conditions for redirecting the rate of 2% or 3,5% to sustain non-profit entities and cult units and to provide private scholarships from the income tax from pensions, income from independent activities performed based on sport activities contracts, income from intellectual property rights, annual income tax etc. were introduced.

Title VI – Social security contributions

- Clarifications were brought to the calculation of the pension contribution for the individuals who obtain salary income based on full time or part time employment contract, that was suspended.
- Amendments were brought to the calculation basis and reporting for the pension contributions and health fund contributions for individuals who obtain income from intellectual property rights from one or many income payers.
- Amendments were brought to the tax treatment for indemnities of temporary incapacity of work, based on the specific legislation, from health fund contribution perspective.

Title VII - VAT

- Operations performed during projects of Research & Development and innovation do not fall within the scope of VAT, if the results of the research are not transferred to another person.
- Taxable persons carrying out research and development activities in the process of their economic activity are entitled to deduct the VAT related to the purchases performed in the scope of these activities, within the limits and under the conditions provided by Fiscal Code, even if the results of the research are not transferred to another person.
- When the results of the research are transferred to another person, these transactions represent supplies of goods/ supply of services that fall in the scope of VAT, as long as the provisions related to taxable transactions are fulfilled (article 268, paragraph 1 of Fiscal Code).
- Bodies of collective management for copyrights and related rights are considered taxable persons from a VAT perspective.
- The operations performed by holders of the copyrights, to producers and importers of unregistered media supports and of recording and copyright devices, from which bodies of collective management for copyrights and related rights perceive compensatory remuneration for the sale of these devices and media supports, on their behalf but in their own name, are not considered services rendered in scope of VAT.

- Collecting the compensatory remuneration for private copy does not represent consideration for a supply of services within the scope of VAT.
- Bodies of collective management for copyrights and related rights supply services within the scope of VAT to holders of the copyrights and the related consideration is represented by the management fee retained from the amounts collected.
- The application of the above is also extended to other amounts collected by bodies of collective management for copyrights and related rights, arising from the rights managed.

Title VIII - Excise duties

- The methodological norms were correlated with the provisions of the Fiscal Code regarding the authorization of the fiscal warehouses, the registered consignees, the registered exporters and the authorized importers by the territorial tax authority.
- Registration of economic operators who extract coal, produce coke, and those who perform intra-Community acquisitions or import such products, as well as producers, distributors or re-distributors of electricity and distributors or re-distributors of natural gas, is carried out at the level of the territorial tax authority.
- Exemption from excise duties is granted for excise goods acquired for /on behalf of NATO forces, and for the purchases made by structures with legal personality subordinated to the Ministry of National Defense.
- Regarding the mutual recognition of procedures for the complete denaturing of alcohol for the purpose of exemption from excise duty, a new formula for complete denaturing of ethyl alcohol in terms of per hectoliter of pure alcohol was established.
- New procedures/conditions for granting the refund of excise duties for heated tobacco products subject to non-harmonized excise duties manufactured in tax warehouses in Romania and subsequently intra-Community delivered or exported have been introduced.

Title IX - Local taxes

- New clarifications regarding the documents required to apply the tax exemption for buildings considered historical monuments are introduced.

For further questions regarding the aspects mentioned in this alert,
please contact us.



Dan Bădin
Partner – Direct Tax
+40 742394238
dbadin@deloittece.com



Vlad Boeriu
Partner – Indirect Tax
+40 730 077 918
vboeriu@deloittece.com



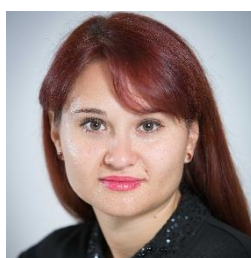
Raluca Bontaș
Partener – Income Tax
+40 21 2075 392
rbontas@deloittece.com



Mihai Petre
Senior Manager – Excise taxes
+40 21 2075 344
mipetre@deloittece.com



Andreea Geacu
Manager – Direct Tax
+40 730077891
ageacu@deloittece.com



Elena Gavrilesco
Manager – Income Tax
+40 (21) 222 16 61
egavrilesco@deloittece.com



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