

Tax & Legal Alert

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Legislative measures with major impact, proposed by the draft GEO

A series of legislative changes with impact on the financial services, electricity, gambling, telecommunications, amongst others, are proposed through a draft of emergency ordinance, published on December 18:

- A tax on the assets of financial institutions – “The Greed Tax” – the rate is progressive, and is determined according to ROBOR;
- Set-up of a minimum contribution for granting and extending the licenses for telecommunications providers;
- A new annual tax for gambling organizers;
- Freezing of the gas selling price by 2022 to 68lei/MWh;
- New rules for setting tariffs and contributions owed by electricity operators;
- Increasing the financial contribution of electricity operators;
- Indexation of local taxes and fees;
- Tax incentives for employees in the construction sector;
- Tax on revenues from advertising on alcohol and tobacco;
- Substantial changes to pension pillar II.



Legislative measures with major impact, proposed by the draft GEO

Tax on the assets of the banking and financial institutions - the „Greed Tax“

Starting with January 1st, 2019, financial and banking institutions will owe a quarterly tax on assets if the quarterly average of ROBOR exceeds the benchmark of 1.5%.

The tax rates are progressive, ranging between 0.2% and 0.9%. If the quarterly average of the ROBOR rates exceeds by more than 2 percentage points the threshold, the 0.9% greed tax rate is progressively increased by 0.3 percentage points for each exceeding by 0.5 percentage points of the reference rate which is increased by 2 percentage points.

The Greed Tax is calculated, declared and paid up to the 25th of the month following the quarter, and represents deductible expense in the calculation of corporation tax.

Establishment of minimum values for granting, respectively prolonging licenses for telecommunication operators

Granting and prolonging licenses for the use of radio frequencies will be based on a minimum value for each year the license is granted, as follows:

- 4% of the previous year's revenue for the second and third mobile communications, multiplied by the number of years for which the license is granted;
- 2% of the previous year's turnover for the fifth generation of mobile communications, multiplied by the number of years for which the license is granted. The proposed fifth-generation mobile communications license quota is applicable in the case of licensing.

The annual monitoring fee payable by providers of public electronic

communications networks, providers of publicly available electronic communications services or postal service providers shall be set at 3% of the turnover achieved in the previous year.

A new annual tax for gambling organizers

Starting January 1st, 2019, the gambling organizers regulated by GEO no. 77/2009 have the obligation to pay a new annual fee of 3% of the total fees charged in the previous year. For online gambling organizers the rate is 5%.

The tax is calculated, declared and paid to the state budget until:

- 25 including February of the fiscal year following the one in which the participation fee was collected, in the case of gambling organizers already established;
- 25 including the month following the one in which the participation fees were collected in the event of gambling organizers set up during the year. They no longer owe the annual tax in the year following the year of establishment.

Gas selling price

Between 1 April 2019 and 28 February 2022, producers, including their subsidiaries and / or affiliates belonging to the same economic interest group carrying out both extraction activities and sales activities of natural gas extracted from Romania have the obligation to sell with the price of 68 lei/MWh the natural gas quantities resulting from the current domestic production activity to eligible suppliers and eligible customers.

The differences in purchase costs in the years 2018 and 2019 of the suppliers, not recovered by the prices charged, will be recovered until 30.06.2022.

Failure to comply is a contravention and is sanctioned by a fine of 10% of the turnover of the year preceding the application of the contravention sanction.

The cash contribution of electricity operators increases from 0.1% to 3%

The cash contribution charged by economic operators operating in the electricity sector will be calculated as 3% of the turnover achieved by them.

Indexing local taxes and fees

If the local council's decision on the indexation of local taxes and taxes has not been adopted at least 3 working days before the end of the fiscal year, they will be indexed with the maximum levels provided by the Fiscal Code in the following year.

Tax incentives for employees in building sector

Starting January 1, 2019, for a period of 10 years, some tax incentives are introduced for employees of companies operating in the building sector. Eligible employees will benefit from the exemption from income tax and social security contributions as well as from the 3.75% reduction of the social insurance contribution.

The employer will be responsible for assessing the eligibility conditions for accessing the facilities. These conditions include, among other things, the level of the salary, the employer's field of activity and the turnover in the eligible areas. Therefore, it is necessary to establish a process that supports the fulfillment of these criteria provided by the law before implementing the facilities and monitoring them during the implementation.

Extending reverse charge

With regards to VAT, reverse charge for delivery of grain, greenhouse gas emission allowance transfer, electricity supply, green certificates transfer, mobile phone provisioning, integrated circuit devices, gaming consoles, tablet PCs and laptops are prolonged until June 30, 2022.

Excise on tobacco

The excise tax on cigarettes will be 483.74 lei as of January 1, 2019, compared to the one of 448.74 that applies today.

The tax on revenues from advertising on tobacco and alcohol goods

The tax of 12% on revenues from advertising on tobacco and alcohol goods will be part of State Budget. Similar to the other tax obligations, we can conclude ANAF's intention of controlling this tax.

Changes in pensions, Pillar II

- The possibility to withdraw contributions after a period of 5 years.
- Deduction of administration fees and their determination according to the level of yields obtained.
- Additional capital requirements for pension fund administrators up to 20 times higher than today.

For further questions regarding the aspects mentioned in this alert, do not hesitate to contact us.



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