



**In this issue:**

**I. Amendments to the legislation for the introduction of fiscal measures, amendments of legislative acts and deadlines extensions in the context of COVID-19**

On June 25, 2020, the Emergency Ordinance no. 99/2020 for the implementation of fiscal measures, amendments of legislative acts and the deadlines extension (“**GEO no. 99/2020**”) was published in the Official Gazette.

**II. The postponement of the reporting deadlines established by the (EU) Directive no. 2018/822 (“DAC 6”, “Directive”)**

On June 24, 2020, the EU Council reached an agreement (through (EU) Directive 2020/876) regarding **the optional 6-month postponement of the reporting deadlines** established by the (EU) Directive no. 2018/822 as regards the automatic exchange of information in the field of taxation in relation to reportable cross-border arrangements, whereby the member states may opt for the delay of the reporting deadlines until the beginning of 2021.

## I. Emergency Ordinance no. 99/2020 for the implementation of fiscal measures, amendments of legislative acts and deadlines extension

The following amendments are provided:

### 1. Measures regarding the specific tax applied to certain activities regulated by the Law no. 170/2016 (specific to HoReCa industry)

- **Taxpayers obliged to pay the tax specific to certain activities**, according to Law no. 170/2016 regarding the specific tax of some activities, for the year 2020, **do not owe specific tax for a period of 90 days** starting with the publishing date of GEO 99/2020;
- For the application of the above mentioned provision, the taxpayers recalculate, accordingly, the specific tax due for 2020 established according to Law no. 170/2016, by dividing the annual specific tax by 365 calendar days and multiplying the resulting value by the difference between the number of 365 calendar days and the number of 90 days;
- Taxpayers who fall under the provisions of art. IX of the Government Emergency Ordinance no. 48/2020 on some financial-fiscal measures, for the recalculation of the specific annual tax according to the abovementioned provisions, also take into consideration the period in which they interrupted the activity totally or partially due to the state of emergency. Thus, the period of 90 days of exemption from the payment of the specific tax under the conditions of GEO 99/2020 would be cumulated with the period for which the taxpayers benefited/benefit from the exemption under the conditions of Government Emergency Ordinance 48/2020;
- **The deadline for payment and declaration** of the specific tax related to the first semester of 2020 is extended from July 25<sup>th</sup> to **October 25<sup>th</sup>, 2020**;

### 2. Clarifications brought in respect to the measures related to allowances for the payment of corporate income tax / microenterprises tax

Government Emergency Ordinance no. 33/2020 regarding some fiscal measures and the amendments of some normative acts, published in the Official Gazette of Romania, Part I, no. 260 of March 30, 2020, approved with additions by Law no. 54/2020, is amended as follows:

- **Taxpayers paying corporate income tax**, regardless of the declaration and payment system provided by Art. 41 of Law no. 227/2015 on the Fiscal Code, as subsequently amended and supplemented, as well as **taxpayers paying microenterprise tax**, which pay the tax /pre-payment on a quarterly basis within the statutory deadlines, i.e. July 25, 2020 for the second quarter, respectively October 25, 2020 for the third quarter, benefit from a **10% allowance** for the quarterly tax/pre-payment;
- In addition, the Emergency Ordinance stipulates that the **10% allowance** for the payment of the corporate income tax/microenterprise tax due for the second and third quarters of 2020 within the statutory deadlines also applies to taxpayers who apply the **corporate income tax pre-payment system**, as well as to **taxpayers who have a fiscal year different from the calendar year**;
- Thus, in case of a modified fiscal year, taxpayers benefit from the abovementioned allowance if they perform the payments/pre-payments until the due date between April 25 and June 25, 2020 (inclusive) and respectively if they perform the payments/pre-payments until the due date, as the case may be, between June 26 and September 25 (inclusive), and between September 26 and December 25, 2020 (inclusive);
- The measure provided under the first bullet above is also applicable to **taxpayers activating in the HoReCa industry who also pay corporate income tax** (for the first quarter, respectively for the second and third quarters of 2020, determined for the activities carried out, other than those corresponding to the NACE codes falling under the incidence of Law No. 170/2016).

### 3. Measures regarding the value added tax

- The supplies of personal protective facemasks and medical ventilators for intensive care units are VAT exempt. The measure will apply until October 1 2020, for supplies performed by public institutions responsible for the completion of the European Union's capacity reserve - rescEU. The supplier will justify the VAT exemption with the affidavit regarding the destination of the goods, signed by the legal representative, provided by the beneficiary institution, the latest at the moment of supply of the goods.
- The value added tax exemption will also apply to imports and intra-Community acquisitions of personal protective facemasks and medical ventilators for intensive care units. The exemption will apply until October 1, 2020, and covers imports and intra-Community acquisitions performed by public institutions responsible for the completion of the European Union's capacity reserve - rescEU. For applying the VAT exemption related to imports, the affidavit, provided by the beneficiary institution, shall be submitted, signed by the legal representative, to the competent customs authority at the moment of import.

### 4. Foreclosure measures

- Foreclosure, by setting up the garnishment, by summons and by the capitalization of the goods at auction, of the budget debts, does not start or will be suspended. Exceptions will be the foreclosure that applies to the recovery of budget debts established by final decisions in criminal matters, as well as State Aid, the recovery of which was ordered by decision of the European Commission, the State Aid provider or a National Court.
- Measures to suspend foreclosure by garnishment on amounts representing income and cash are applied by credit institutions or other third parties seized without any other formalities to be performed by the tax authorities.

### 5. Deadlines extension

**Art. III of the Government Emergency Ordinance no. 90/2020 for the amendment of the Government Ordinance no. 6/2019 on the establishment of fiscal facilities, as well as for the modification of other normative acts, published in the Official Gazette of Romania, Part I, no. 459 of May 29, 2020, is amended as follows:**

The Emergency Ordinance provides for the **extension until 25<sup>th</sup> October, 2020** of the following deadlines (the previous deadline being *June 25, 2020*):

- The date up to which interest and penalties are not computed and are not due according to the Tax Procedural Code;
- The date until which the tax obligations are not considered outstanding tax obligations;
- The date until which the enforcement measures are suspended or do not begin, with the exception of the state receivables as decided through a permanent decision of a Judicial Court and the recovering of state aid as ordered by the European Commission, the provider of the state aid or a National Court;

The deadline provided by Art. XIII para. (1) of the Government Emergency Ordinance no. 48/2020 is extended **until October 25, 2020** (previously, the deadline was June 25, 2020). The main measures whose term is extended:

- The date until which the negative VAT balance requested through the VAT returns submitted within the legal term is reimbursed with the subsequent tax inspection;
- The date until which no interest and penalties are due for late payment of installments in the rescheduling of debt repayment schedule.

### 6. Measures to support of the holders of renting agreements of beaches

- The holders of renting agreements of beaches as concluded under Art. 2 of the GEO no.19/2006 will benefit, only for the period of 2020 summer season, from an exemption to pay the second installment, for the renting agreements that provides three installments, or a 30% decreased amount of the second installment from the total value of the contract, in the case that the renting agreements provides for two installments;

- When establishing the performance guarantee as provided in the renting agreements, with respect to the yearly refund, the exemption or the decreased amount, as presented in the above paragraph, will not be taken into consideration.

## II. The EU Council reached an agreement regarding the postponing of the reporting deadlines established by DAC 6

- Given the COVID-19 pandemic context, on 24 June 2020, the EU Council reached an agreement regarding **the 6-month optional delay the DAC6 reporting deadlines**, as per (EU) Directive 2020/876 of the EU Council, published on 26 June 2020.
- Consequently, **it is allowed for each member state to postpone the reporting deadline with 6 months**, as follows:
  - For the historical arrangements, conducted between June 25, 2018 and June 30, 2020, the reporting deadline can be delayed until **February 28, 2021** (*initially, the reporting deadline was set for August 31, 2020*);
  - The **30-day reporting term** would apply for any reportable arrangement carried out after **January 1, 2021** (*initially, it was for any reportable arrangement carried out after July 1, 2020*);
  - For the arrangements conducted between July 1, 2020 and December 31, 2020, the 30-day reporting deadline will start on January 1, 2021;
  - The report on marketable arrangements will be submitted by the intermediaries up to April 30, 2021.
- Moreover, it is possible for the reporting terms to be further prolonged with another 3 months if the negative impact of COVID-19 will persist.
- We have to mention that the delay of the reporting deadlines is **optional** for the member states. Hence, the EU Council leaves to each Member States the option of delaying the deadlines, or on the contrary, to maintain the scheduled reporting deadlines established by the DAC 6.
- Romania did not take an official position up until this moment in order to clarify if the Romanian state will resort to the delay of the reporting deadlines, or on the contrary, will maintain the scheduled reporting deadline. Therefore, we are expecting further clarifications from the Romanian authorities on this matter.

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



**Alexandra Smedoiu**  
Partner  
[asmedoiu@deloittece.com](mailto:asmedoiu@deloittece.com)



**Raluca Bâldea**  
Partner  
[rbaldea@deloittece.com](mailto:rbaldea@deloittece.com)



**Mihaela Popescu-Ichim**  
Director  
[mpopescuichim@deloittece.com](mailto:mpopescuichim@deloittece.com)



**Ioana Nastase**  
Senior Manager  
[inastase@deloittece.com](mailto:inastase@deloittece.com)



**Victoria Dobre**  
Senior Manager  
[vdobre@deloittece.com](mailto:vdobre@deloittece.com)



**Anca Ghizdavu**  
Manager  
[aghizdavu@deloittece.com](mailto:aghizdavu@deloittece.com)

# Deloitte.

Deloitte refers to one or more of Deloitte Touche Tohmatsu Limited, a UK private company limited by guarantee (“DTTL”), its network of member firms, and their related entities. DTTL and each of its member firms are legally separate and independent entities. DTTL (also referred to as “Deloitte Global”) does not provide services to clients. Please see [www.deloitte.com/ro/about](http://www.deloitte.com/ro/about) to learn more about our global network of member firms.

Deloitte provides audit, consulting, legal, financial advisory, risk advisory, tax and related services to public and private clients spanning multiple industries. Deloitte serves four out of five Fortune Global 500® companies through a globally connected network of member firms in more than 150 countries and territories bringing world-class capabilities, insights, and high-quality service to address clients' most complex business challenges. To learn more about how Deloitte's approximately 244,000 professionals make an impact that matters, please connect with us on [Facebook](#) or [LinkedIn](#).

Reff & Associates SCA is a law firm member of Bucharest Bar, independent in accordance with the Bar rules and represents Deloitte Legal in Romania. Deloitte Legal means the legal practices of Deloitte Touche Tohmatsu Limited member firms or their affiliates that provide legal services. Visit the global Deloitte Legal website <http://www.deloitte.com/deloittelegal> to see which services Deloitte Legal offers in a particular country.

This alert is offered as guidance and must not be considered a consultancy service. Before taking any action based on this document, you should ask for professional fiscal/legal advisory.

This communication contains general information only, and none of Deloitte Touche Tohmatsu Limited, its member firms, or their related entities (collectively, the “Deloitte Network”) is, by means of this communication, rendering professional advice or services. Before making any decision or taking any action that may affect your finances or your business, you should consult a qualified professional advisor. No entity in the Deloitte Network shall be responsible for any loss whatsoever sustained by any person who relies on this communication.

© 2020. For information, contact Deloitte Romania