Deloitte.

Tax & Legal Alert
October 14,2021

In this issue:

Government Emergency Ordinance on the administration, operation and implementation of the national system regarding the electronic invoice RO e-Factura and the electronic invoice in Romania

Romania implements the EU Directive on electronic invoicing through GEO no. 120/2021, published in the Official Gazette no. 960 / 07.10.2021. The ordinance describes the functioning of the electronic invoicing system and outlines the general rules for the transmission, reception and processing of electronic invoices.

Major reform of the international tax system

Paid days off granted to parents and other categories of persons in the context of the spread of SARS-CoV-2 coronavirus

On October 4, 2021, Government Emergency Ordinance no. 110/2021 for granting paid days off to parents and other categories of people in the context of the spread of SARS-CoV2 coronavirus ("**GEO no. 110/2021**") was published in Official Gazette no. 945. Among the most important aspects, the new legal enactment lays down the conditions in which parents are granted days off starting from October 4, 2021 and until the end of the 2021-2022 school year.

New social protection measures of social protection for employees and other professional categories in the context of restriction, suspension or limitation of economic activities, as a result of the epidemiological situation generated by the spread of SARS-Cov2 coronavirus

On October 4, 2021, Government Emergency Ordinance no. 111/2021 establishing support measures for employees and other social categories in the context of the epidemiological situation caused by the spread of SARS-CoV-2 coronavirus ("**GEO no. 111/2021**") was published in Official Gazette no. 945.

Among the most important aspects, the legal enactment regulates the financial support measures granted between 4 October and 31 December 2021.

Increase of minimum gross base salary per country starting from January 1, 2022.

On October 5, 2021, Government Decision no. 1071/2021 establishing the minimum gross base salary per country was published in Official Gazette no. 950.

Government Emergency Ordinance on the administration, operation and implementation of the national system regarding the electronic invoice RO e-Factura and the electronic invoice in Romania

Romania implements the EU Directive on electronic invoicing. On 7 October 2021, it was published in the Official Gazette no. 960 / 07.10.2021 " Government Emergency Ordinance on the administration, operation and implementation of the national system on electronic invoicing RO e-Invoice and electronic invoicing in Romania".

The implementation of the system covered by the Ordinance aims at:

- ✓ providing a public electronic system necessary for the performance of public procurement contracts and transactions between economic operators;
- ✓ coherence in the implementation and implementation of fiscal-budgetary policies and reforms, respectively the implementation of mechanisms to ensure monitoring;
- ✓ increasing efficiency and effectiveness in collecting taxes and duties, in particular VAT.

The ordinance describes the functioning of the electronic invoicing system and outlines the general rules for the transmission, reception and processing of electronic invoices.

The national system regarding the electronic invoice RO e-Factura will become operational within a maximum of 30 days from the date of entry into force of the ordinance. The procedure for the use and operation of the system will be approved within 15 days by order of the Minister of Finance.

Electronic invoicing through the system is optional and will be able to be used in B2G (economic operator and contracting authorities/entities as defined by the ordinance) or B2B relationships.

If the economic operator has opted for the use of the B2G system, it has the obligation to issue only electronic invoices in B2G relations (with small exceptions – classified contracts / subject to special security measures to protect the interests of the state).

In B2B relationships, in order to use the system, both parties must be registered in the RO e-Invoice Register. The register is public and will be displayed on the ANAF website.

Major reform of the international tax system

On October 8, the OECD completed the Major Reform of the International Tax System, which establishes that multinational enterprises (MNEs) will be subject to a tax rate of at least 15% from 2023.

The landmark agreement that has been agreed across 136 countries and jurisdictions, representing more than 90% of global GDP, will reallocate over $125 billion of the profits of approximately 100 of the largest and most profitable global MNEs to countries around the world, ensuring that these firms pay a fair share of the tax wherever they operate and generate profits.

Thus, 136 jurisdictions (out of the 140 OECD/ G20 members on BEPS) joined the Declaration on the two pillar solution to address the fiscal challenges arising from the digitalization of the economy. Four countries - Kenya, Nigeria, Pakistan and Sri Lanka - have not yet joined the agreement.

The two-pillar solution will be addressed at the G20 finance ministers' meeting in Washington D.C. on 13 October, then at the G20 Leaders' Summit in Rome at the end of the month.

The global minimum tax agreement does not aim to eliminate tax competition, but imposes the limits agreed multilaterally.

Pillar 1 will ensure a fairer distribution of profits and tax rights between countries with regard to the largest and most profitable multinational enterprises. Certain taxing rights will be reallocated to multinational enterprises in their home countries in the markets where they conduct business and earn profits, regardless of whether firms have a physical presence there. More specifically, multinational enterprises with global sales of over EUR 20 billion and with a profitability of over 10%, will be covered by the new rules, with 25% of the profit above the 10% threshold being reallocated to market jurisdictions.

Under Pillar 1, profit tax rights of over $125 billion are expected to be reallocated to market jurisdictions each year.

Pillar 2 introduces an overall minimum corporate tax rate set at 15%. The new minimum tax rate will apply to companies with revenues higher than EUR 750 million and is estimated to generate about USD 150 billion in additional tax revenues annually.

The countries aim to sign a multilateral convention in the course of 2022, with effective implementation from 2023.

Main aspects covered by GEO no.110/2021:

- ✓ Paid days off are granted, in certain conditions, to one of the parents to supervise children when activities requiring physical presence in schools are limited or suspended during the state of alert and after it is expiration, but no later than the end of 2021-2022 school year;
- ✓ Parents who meet the conditions are entitled to receive paid days off for the entire period in which classroom activities are limited or suspended, based either on the decision of the country/Bucharest municipality emergency situations committee or on the decision of the education unit/institution;
- ✓ The paid days off are granted based on the parent’s request, submitted to the employer, and the employer has the obligation to grant these days off; the employer’s refusal may be sanctioned with fines ranging between RON 1,000 and RON 2,000 per employee (approx. EUR 200 – 400), without exceeding the cumulated value of RON 20,000 (approx. EUR 5,000);
- ✓ The indemnity granted for each day off is paid by the employer and its amount is 75% of the base salary for a working day, capped to the daily amount corresponding to 75% of the gross medium salary. Employers can request reimbursement of this indemnity from the state budget;
- ✓ The indemnity is subject to income tax, mandatory social security contributions (health and pension) and work insurance contribution;
- ✓ The public institutions coordinating education units have the obligation to send to unemployment agencies the nominal lists of children/individuals whose classes were limited/suspended, in maximum 10 days from issuing their decision in this sense.

The standard templates of employer’s request and statement to be used for reimbursement of paid indemnities were approved by Order no. 920/2021 and published in the Official Gazette no. 964 on October 8, 2021.

Main aspects covered by GEO no. 111/2021:

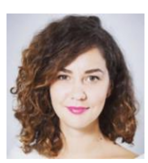
- ✓ Starting from October 4, 2021 and until December 31, 2021, employees may benefit from indemnities granted for the period in which their individual employment contract is suspended at the employer's initiative, based on art. 53 par. (1) letter c) in the Labor Code as a result of effects generated by the SARS-CoV-2 coronavirus;
- ✓ Employees are granted the indemnities in case of temporary interruption of activity, either total or partial, as well as in case the employer's activity was suspended following an epidemiological investigation from the public health authority;
- ✓ The amount of the indemnity is 75% from the base salary of the job position, however capped at 75% of the medium gross salary income; employers can supplement this amount if their budget for personnel expenses allows it;
- ✓ The indemnity is subject to income tax and mandatory social security contributions (health and pension) and are exempt from the work insurance contribution, in employees' case;
- ✓ The employers can request in the same month both this indemnity and the indemnity granted for temporary reduction of business activity (under Government Emergency Ordinance no. 132/2020), depending on the employee's case. Also, employers can request both indemnities for the same employee in the same month if they are granted for different periods;
- ✓ As per this new legal enactment, the indemnity is also granted to individuals in other professional categories (professionals, individuals who obtain income from property rights, individuals who have concluded individual working conventions, individuals who obtain money rights from the sport activities);
- ✓ Specific rules are established for employees with multiple employment contracts, as well as for employees who are also in the other professional categories indicated by the legal enactment;
- ✓ The procedure for granting the indemnities is detailed, both for employees and for individuals in other professional categories.

The minimum gross base salary per country will be increased starting from January 1, 2022

- ✓ As per Government Decision no. 1071/2021, starting from January 1, 2022, the minimum gross base salary per country for a normal work schedule will be RON 2,550 per month, without including salary increments or other additions, irrespective of the employee's study level and work experience.

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

Raluca Baldea
Partner
Deloitte Tax
rbaldea@deloittece.com



Catalina Cojocaru
Manager
Deloitte Tax
cacojocaru@deloittece.com


Raluca Bontaș
Partner
Deloitte Tax
rbontas@deloittece.com


Mihaela Vechiu
Manager
Deloitte Tax
mvechiu@deloittece.com


Alexandra Smedoiu
Partener
Deloitte Tax
asmedoiu@deloitteCE.com


Elena Geageac
Senior Manager
Deloitte Tax
egeageac@deloitteCE.com


Anca-Gabriela Ilie
Senior Manager
Reff & Associates
ailie@reff-associates.ro

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 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.

© 2021. For information, contact Deloitte Romania