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New VAT rules applicable for e-commerce

Starting with **July 1st, 2021**, in the context of the implementation of the new European VAT rules included in the e-commerce package, the **One Stop Shop (“OSS”) system** becomes operational in Romania.

The Government Emergency Ordinance no. 59/2021 published in the Official Gazette on June 28th, 2021, aimed to amend the Tax code, transposes in the national legislation the new European VAT provisions on e-commerce.

The new provisions aim to reduce the administrative burden for companies by simplifying the procedure for reporting and paying VAT, corresponding to the e-commerce carried out on the EU territory (i.e. centralized submission and payment of VAT), respectively, to reduce the competitive differences between the EU and non-EU sellers.

The application of these VAT regimes (as detailed below) will be done optionally.

Decision no. 654 for the modification and completion of the Methodological Norms regarding the posting of employees within the provisions of transnational services on the Romanian territory approved by the Government Decision no. 337/2017

Government Emergency Ordinance no. 51/2021 on the prorogation of the deadline provided for in Article II (9) and Article III of Law no. 295/2020 on amending and supplementing Law no. 207/2015 on Tax Procedure Code as well as for the approval of certain fiscal-budgetary measures

New VAT rules applicable for e-commerce

- The definition of the intra-community distance sales of goods is updated, being included also the situation in which the supplier intervenes **indirectly** in the transport or supply of goods.
- The new regulation also introduces the concept of **distance selling of goods imported from third territories or third countries to a customer* in a Member State.**
*non-taxable person or treated as a non-taxable person from the VAT perspective
- Special provisions are introduced in connection with the concept of **electronic interfaces**. For clarification, it is mentioned that electronic interfaces materialize in *online markets, platforms, portals or other similar means*.

By using electronic interfaces, the taxable person - who **facilitates** in this way the distance selling of **imported goods** from third territories or third countries in batches with an **intrinsic value of up to EUR 150**, as well as the **supply of goods in EU, by a taxable person not established in the EU to a non-taxable person** – it is considered **to have received and supplied the goods itself**. The chargeable event intervenes and the VAT becomes chargeable, in these cases, at the moment when the payment was accepted.

In the case of the above transactions carried out through electronic interfaces, the supply from the seller of the products to the interface (buyer-reseller from the VAT perspective) is VAT exempt (with deduction right).

- Changes are made to **the place of supply in the case of intra-Community distance sales of goods, respectively of electronic, telecommunications, broadcasting and television services** - in the sense of establishing a EUR 10,000 / year threshold, under which the suppliers established in the EU are not required to apply the general taxation rules – art. 275 para. (2) and art. 278 para. (5) let. h) from the Tax code (i.e. under this threshold and under the premise of fulfilling some additional conditions, the transactions could be charged by the supplier in the Member State where is established).
- There are introduced provisions regarding **the place of supply in case of distance sales of imported goods from third territories or third countries**, respectively:
 - **when the goods are imported into a Member State other than that in which the transport of the goods to the customer ends**, the place shall be deemed to be **where the goods are at the time the transport to the customer ends**;
 - **when the goods are imported into the Member State where the goods are transported to the customer**, the place shall be deemed to be **that Member State**, provided that VAT on those goods is declared under the import special regime.
- **The VAT exemption is provided for the import of goods, applicable only when the VAT is accounted for under the special import regime** and when, at the latest at the time of submission of the import statement, the individual VAT registration code for the application of the special regime, of the supplier or of the intermediary acting on his behalf, has been provided to the competent customs office of the Member State of import.

Special VAT regimes applicable from July 1st

- It is **extended** the previous special regime for electronic, telecommunications, broadcasting and television services provided by non-EU taxable persons to EU non-taxable persons. The new regime is applicable to **all types of cross-border services** to EU end-users (**non-EU special regime**).
- It is **extended** also the previous special regime for electronic, telecommunications, broadcasting and television services **provided by taxable persons established in the EU**, (but not in the Member State of consumption), for **all types of intra-Community services** to non-taxable persons, **for local supplies of goods through electronic interfaces** and **for intra-Community distance sales of goods (EU special regime)**.

It is introduced **the special regime for the distance sale of goods imported from third territories or third countries**, in batches with an intrinsic value of maximum 150 euros, except for excisable goods (**import special regime**). In some cases (for suppliers not established in the EU but in third countries for which there doesn't exist a mutual tax assistance instrument) for applying the regime appointing an intermediary shall be needed. The chargeable event intervenes and the VAT becomes chargeable, in such cases, at the moment when the payment was accepted.

- The period for reporting and paying VAT **under the EU and non-EU special regimes is modified**, the new deadline being set **until the end of the next month after the end of each calendar quarter** (in the previous regulation the deadline was 20 days from the end of each calendar quarter).

The content of the VAT statement used under the EU and non-EU regimes will be adapted accordingly, so that it also includes information on intra-Community distance sales of goods.

- Also, **regarding the period of reporting and payment of VAT within the import special regime**, the special VAT statement will be submitted by electronic means, **monthly**.
- **The method of making corrections to the special VAT statement** under all special regimes will be to include the changes in a subsequent statement within three years from the date on which the initial statement was submitted.

The special mechanism applicable if the import special regime is not used

- Separately, **a special mechanism for reporting and paying the VAT on import**, applicable when the import special regime is not used, is provided. As an exception, for all such imports, the VAT rate shall be 19%.

Under this regime, the person presenting the goods in customs (if Romania is the importing state), must submit monthly to the competent customs authority, the special VAT return. The payment of corresponding VAT and the special VAT return submission must be performed until the 16th day of the month following the reporting one.

[For further questions regarding the aspects mentioned in this alert, please contact us.](#)



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Decision no. 654 for the modification and completion of the Methodological Norms regarding the posting of employees within the provisions of transnational services on the Romanian territory approved by the Government Decision no. 337/2017

[The main amendments brought to the Government Decision no. 337/2017 for the approval of the Methodological Norms regarding the posting of employees within the provision of transnational services on the Romanian territory \(hereinafter referred to as “Norms”\).](#)

- ✓ Clarifications are provided on the aspects that the Labor Inspection require to the Territorial Labor Inspectorates when verifying and controlling situations of transnational posting, such as: non-compliance or abuse of the applicable rules, transnational cases of undeclared work and fictitious self-employment in the matter of posting;
- ✓ The notification form regarding the transnational posting of employees was modified, its model being provided in Annex no. 1 of the Norms. The main change is the introduction of a section where the employer can select the type of transnational measure that the company chose to apply;
- ✓ The submission deadline of the notification regarding the transnational posting of employees has changed. The new submission deadline is: not later than the start date of activity;
- ✓ The submission deadline of the Annex 1 for the situation in which the elements initially declared have modified has also changed. The new deadline is: the latest on the day the modification was made;
- ✓ Annex no. 2, entitled “Notification regarding the extension of the secondment of employees in the framework of rendering transnational services” is introduced. Its submission is mandatory in case the extension of the effective duration of the secondment is desired without applying the working and employment conditions of the host Member State for up to 18 months. The submission deadline is at the latest one day before fulfilling 12 months of assignment. Annex 2 can also be submitted electronically, by e-mail, or via an online platform, as soon as this platform will be available.
- ✓ In the case of an employee who has been put by a temporary work agent at the disposal of a Romanian company and who carries out his activity on the territory of a Member State other than Romania, the Romanian company has the obligation to inform the temporary work agent with at least 30 days before the activity begins in that State, and to notify the Romanian Territorial Labor Inspectorate at the latest on the day before the employee is seconded to that Member State.

Government Emergency Ordinance no. 51/2021 on the prorogation of the deadline provided for in Article II (9) and Article III of Law no. 295/2020 on amending and supplementing Law no. 207/2015 on Tax Procedure Code as well as for the approval of certain fiscal-budgetary measures

Considering that the transfer of the activity of settling the tax appeals constitutes a laborious and lengthy process, as well as the fact that no enactments were adopted to ensure the implementation and organization of this process by the moment the 6 months following the date of publication of the Law no. 295/2020 in the Official Gazette (*i.e.* 22 June 2021) elapsed, the Government decided that:

- ✓ The Ministry of Public Finance, through its specialized structure, will be taking over the activity of settling the tax appeals against tax assessment decisions and other administrative decisions issued by the central tax authority from the date of October 1, 2021.

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