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Order no. 2518 of 15th of December, 2022 for amendment of some Orders of the NAFA President on the organization of the administration of the activity of large and medium taxpayers

On 15th of December, 2022, in the Official Gazette no. 1207, the Order on the organization of the administration activity of large and medium taxpayers was published. Through this it is also mentioned the reference dates on SAF-T reporting at the level of companies classified as medium taxpayers.

Publication of a new version of the SAF-T scheme including amendments targeting finance-banking and insurance companies

On 19th of December, 2022 a new SAF-T scheme was published on the NAFA website, bringing clarifications and novelty elements on reporting, especially for companies in the finance-banking and insurance fields.

The amount of the minimum gross salary per country guaranteed in payment will increase in 2023 and the framework model of individual employment agreement undergoes changes

Through the *Government Decision no. 1447/2022 for establishing the minimum gross national salary guaranteed in payment* the amount of the minimum wage was modified to the amount of RON 3,000 and by *Order of the Ministry of Labour and Social Solidarity no. 2171/2022 for the approval of the framework model of the individual employment agreement* some of the mandatory elements of any individual employment agreement have been amended and new elements have been introduced.

Mandatory registration of rental agreements and its corresponding procedure

On December 5, 2022, Order no. 2031/2022 for the amendment of the Order no. 114/2019 on the approval of the registration procedure for rental agreements, as well as the approval for the form and content of the named "Request for rental agreements' registration", was published in the Official Gazette no. 1164.

Decision on the work permit quota for newly admitted foreign workers on the labor market in 2023

On December 9, 2022, the Government Decision no. 1448/2022 on establishing the quota for newly admitted workers on the labor market in 2023, was published in the Official Gazette no. 1186

Legislation amendments regarding some fiscal-budgetary measures, the postponement of specific deadlines, as well as the amendment of certain normative acts

On December 9, 2022, Government Emergency Ordinance no. 168/2022 regarding some fiscal-budgetary measures, the postponement of specific deadlines, as well as the amendment of certain normative acts, was published in the Romanian Official Gazette no. 1186.

I. Order no. 2518 of 15th of December, 2022 for amendment of some Orders of the NAFA President on the organization of the administration activity of large and medium taxpayers

In the Official Gazette no. 1207 of 15 December 2022, new rules on the administration of large and medium taxpayers were published. The main changes concern:

- Extension of the deadline for updating the lists of large taxpayers, including their secondary premises, up to **10 December 2023**;
- The number of companies classified as medium taxpayers has been reduced to 15,000, in the past being 18,478;
- Also, non-resident taxpayers which are represented or fiscal represented by a medium taxpayer have been removed from the category of medium taxpayers.

Through this order are provided and amendments to Annex no. 5 to the Order of the NAFA President no. 1783/2021 regulating the SAF-T reporting. These are:

- For companies that fell into the category of medium taxpayers as of 31st of December, 2021 and are no longer part of this category as of January 1, 2023 (being small taxpayers) are required to start SAF-T reporting from 1st of January, 2025. They **can opt** for the submission of D406 starting with 1st of January, 2023, by submitting the statement, subsequently validated by NAFA. They will not be able to give up the option expressed.
- In the case of companies classified in the category of small taxpayers during 2021-2022 and which starting with 1st of January, 2023 are part of the category of medium taxpayers, the SAF-T reporting will start from 1st of January, 2023.
- In the category of taxpayers which do not have the obligation to submit SAF-T, entities that use classified information or hold documents whose technical specifications are classified according to the law or carry out classified contracts that impose, according to the legal provisions, special security measures to protect essential security interests of the State, in the situation in which by filing D406 would provide such information.

II. Publication of a new version of the SAF-T scheme including changes targeting banking, insurance and pension companies.

The filing of the D406 statement is impacted by a new publication of the SAF-T reporting scheme. Through it, novelty elements are brought, especially for companies in the finance-banking and insurance / pension field that will start submitting the statement from 1st of January, 2023. Also, starting with 1st of January, 2023, the SAF-T statement and the companies classified in the category of medium taxpayers will have to submit the SAF-T statement, according to the *List of medium taxpayers*, published by NAFA on December 14, 2022.

This new scheme covers, inter alia, the following:

- The nomenclature *PlanConturi_Norma14* intended for companies that apply the ASF norm no. 14/2015 was introduced, in order to report the accounting information required by the SAF-T scheme. Also, the nomenclature *NC clase de asigurare* was also introduced what will be used by insurance companies.
- In order to complete the TaxAccountingBasis element in the Header section, a new tag has been introduced, namely:
 - ✓ **NORMA14** – intended for companies that apply the ASF norm no. 14/2015, these being:
 - Privately managed pension funds, optional pension funds and occupational pension funds, hereinafter referred to as private pension funds;
 - Administrators of privately managed pension funds and/or of optional pension funds and/or occupational pension funds, which are pension companies established according to the legal provisions in force, hereinafter referred to as administrators;
 - Private pension brokers, companies established and authorized according to the legal provisions in force;

- Fund for guaranteeing the rights in the private pension system, hereinafter referred to as guarantee fund, established according to Law no. 187/2011.
- The CustomerID and SupplierID elements have been updated as follows:
 - ✓ **Coding 03** can also be used if the partner is a non-resident natural person holding the TIN (Tax Identification Number);
 - ✓ Introduced **coding 09** – for non-resident legal entities registered in Romania;
 - ✓ Introduced **coding 10**, followed by the country code and the unique code allocated for banking companies for non-resident legal entities clients that are not in category 01, 02, 05, 06 and 09;
 - ✓ Introduced **coding 11**, followed by the country code and the unique code allocated for banking companies for non-resident natural customers not in category 03;
- Nomenclature *Nom_Tipuri_facturi* by means of which the mandatory element is filled in **InvoiceType** has been updated, adding the coding: **575 – Insurer invoice**.
- Nomenclature *TAX-IMP Nomenclator NAFA Pentru Impozite și Taxe* and *Nomenclatorul WHT* a number of new codifications have been updated;
- Also, a new version of the DUKValidator application has been published along with the new version of the scheme to check the recently presented information.

At the same time, we inform you that notifications have been issued by the National Agency for Fiscal Administration to companies classified in the category of large taxpayers on 1st of January, 2022, which have not yet started reporting SAF-T and for which the grace period expired on July 31, 2022. Through this notification, the tax authorities send the companies the request to take the necessary steps so that they can start reporting SAF-T.

We recommend to the companies that have not yet started the SAF-T reporting or that are in the process of implementation, to take into account the NAFA "request", to prioritize and allocate the necessary resources and time for a SAF-T implementation, since in the next period the tax authorities will analyze in detail the degree of compliance with the SAF-T reporting.

Another novelty regarding the SAF-T reporting concerns the annual statement on fixed assets that would be submitted by the companies that have the modified financial year. For example, in the case of a company whose financial year ended on March 31, 2022, the authorities initially mentioned that it is also necessary to submit a report for the period 1 January 2022 – 31 March 2022, although this did not include a full financial year.

In a notification published in November 2022, NAFA reconsidered its position, changing the SAF-T reporting guide by mentioning that the first SAF-T statement regarding the Fixed Assets will include a full financial year that started in 2022 and which will be completed in 2023.

III. **The amount of the minimum wage will increase in 2023 and the framework model of individual employment agreement undergoes changes**

- ✓ **Increase of the minimum gross salary per country guaranteed in payment**

According to the Government Decision no. 1447/2022 on the establishment of the minimum gross national salary guaranteed in payment, starting with January 1, 2023, the minimum gross national salary guaranteed in payment is increased from the amount of RON 2,550 / month to the amount of RON 3,000 / month, without including bonuses and other additions.

- ✓ **The new framework model of individual employment contract**

On 09.12.2022, Order no. 2171/2022 for repealing the former order and introducing the new framework model of contract entered into force. This new framework model integrates into the structure of the employment agreement the new mandatory elements introduced by Law no. 283/2022 for the amendment and completion of Law no. 53/2003 - Labor Code, as well as Government Emergency Ordinance no. 57/2019 on the Administrative Code, a law that entered into force in October this year.

Some of the new elements are:

- in regards to the probationary period:

- the conditions associated with the probationary period, if any, must be expressly mentioned in the individual employment agreement;
- in regards to the compensation of overtime – the mention that overtime will be compensated in the next 90 days after they are performed with days off or with a salary increase;
- the introduction of a separate mention regarding compensation for work performed on public holidays and on paid days off established by normative acts/collective bargaining agreements applicable with paid time off or with a salary increase, according to the applicable collective bargaining agreement or Law no. 53/2003 - Labor Code, republished, with subsequent amendments and additions;
- the introduction of the mention regarding the provision/settlement by the employer of the employee's transport expenses if the employee does not have a fixed work place;
- in regards to the job-specific risks:
 - The mention that the risks of injury and occupational disease specific to the job are set out in the risk assessment of the workplace/ workstation and in the sheet for the identification of the occupational risk factors;
- in regards to the procedure for the use of electronic signature, advanced electronic signature, and qualified electronic signature:
 - if the electronic signature will be used in the employment relationship, the procedure regarding the use of the electronic signature must be indicated, with reference to the provisions of the normative acts/internal regulations/the applicable collective bargaining agreement;
- in regards to the professional training:
 - the individual employment agreement must now contain the conditions under which the professional training of employees is carried out, according to the provisions of the normative acts/internal regulations/the applicable collective bargaining agreement;
- the express mention that any conflict with regards to the conclusion, execution, amendment, suspension, or termination of the individual employment agreement may also be settled amicably through the conciliation procedure.

IV. Mandatory registration of rental agreements and its corresponding procedure

- The order regulates the registration procedure of the contracts concluded, depending on the nature of the contract. More specifically, the registration of rental agreements by individuals who receive rental income, as well as the registration of home rental agreements by the lessor, according to the provisions of the Romanian Civil Code.
- Starting with the 1st of January 2023, individuals who receive rental income (not including the lease of agricultural land and the lease of rooms in the lessor's private home for the purpose of tourism) must register the contract and any changes made to the contract afterwards no later than 30 days after concluding/modifying the contract. Furthermore, in the case of contracts that are in use/active on the 1st of January 2023, the registration must be performed within 90 days starting from the 1st of January 2023.
- If the rented assets are co-owned by multiple individuals, each co-owner must register the rental agreement. The registration can be completed directly at the fiscal administration office's registry, via post mail, or online (through the "Virtual Private Space" service), and the request will be processed within 5 days.
- The registration will be completed by submitting the standard request regulated by the Order, together with a copy of the rental agreement.

V. Decision on the work permit quota for newly admitted foreign workers on the labor market in 2023

The number of work permits that can be issued to foreign workers for admission to the Romanian labour market in 2023 is 100,000.

We remind you that work permits are mandatory for third-country nationals (other than EU/EEA/ CH Member States) for them to be employed, according to Ordinance no. 25/2014 on employment and secondment of foreigners in Romania.

VI. Legislation amendments regarding some fiscal-budgetary measures, the postponement of specific deadlines, as well as the amendment of certain normative acts

Changes with an impact on employees and employers

- Starting with the 1st of January 2023, the national minimum gross base salary in the construction sector is established at a value of RON 4.000 per month, without including salary increments or other additions. Not abiding by this provision constitutes a contravention and it is sanctioned according to the Romanian Labor Code, as well as by no longer being able to apply tax incentives. We reiterate the fact that the part of the gross salary income exceeding RON 10.000 per month will not benefit from tax incentives.
- An amount of RON 200 will not be subject to income tax and mandatory social security contributions, in certain conditions, for employees performing activities in all sectors, between January – December 2023. This is applicable for full-time employees with a minimum contractual gross base salary (excluding increments and additions) equal to the country gross minimum wage, whose gross salary income that does not exceed 4.000 RON monthly.
- The suspension of the tax incentive regarding the expenses for early education is extended throughout from 1st of January to 31st of December 2023 (inclusive).

Changes with an impact on corporate income tax and micro-enterprise tax

- During the suspension period of the tax incentive regarding the expenses for early education, covering the period between 1st of January 2023 and 31st of December 2023 (inclusive), these expenses will be deemed as social expenses, having limited deductibility.
- In case of corporate income tax/micro-enterprise tax redirection (through one or more redirection form/s), regarding the sponsorships and/or patronage acts or regarding the private scholarships granted, within a period of maximum 6 months from the date of submission of the annual tax return of corporate income tax or the micro-enterprise tax return for the fourth quarter, the following amendments are made:
 - If the corporate income tax/micro-enterprise tax, due for the year in which the redirection of the tax was ordered, is decreased through a rectifying tax return, subsequently to the redirection form submission, the taxpayers who redirected a larger amount than the one allowed for redirection (according to the law), will due the extra difference to the Romanian State Budget.
 - In case the taxpayer rectifies the corporate income tax/micro-enterprise tax for the year 2021, decreasing the tax due, the point above will be applicable irrespective of the rectifying date.

Changes with an impact on VAT

- Starting with 1st of January 2023, the application of the simplification measures by reverse charge will be extended for energy supplies made to the taxable trader who has the status of sole purchaser within the centralized procurement mechanism set by GEO 153/2022. The purpose of this measure is to eliminate financial imbalances that would appear between producers and economic operators that buy electricity.
- The suspension period of the obligation to submit the informative statements D392A, D392B and D393 is extended until 31 December 2023. The statements D392 refer to the reporting of supplies of goods and services provided by taxpayers with a turnover less than RON 300,000, both registered for VAT purposes (D392A), as well as those not registered (D392B). D393 refers to the revenues obtained from the sale of tickets for the international road transport of persons with the place of departure from Romania.

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



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