

Tax & Legal Weekly Alert

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Corporate Tax: Fiscal authority announces audits after the deadline for submission the tax declaration, March 27

Corporate Tax and VAT will be, since April, targeted by tax audits recently announced by fiscal authority. In this context, we recommend companies to pay more attention to the data reported. At the same time, companies that have become major taxpayers to the state budget in 2016 and, therefore, had not enough time to prepare the transfer pricing documentation file could be another area of interest to the tax authorities.

Pre-insolvency & Insolvency Guide - A guide for companies with cross-border activities

Complete and prompt information about the insolvency law applicable to each European country can facilitate decisions that are crucial in crisis situations for the financial situation of companies that have relationships with external partners or have extended their operations in other countries. That is why more than 50 specialists from Deloitte Legal network around 19 European countries have analyzed and synthesized the legal provisions and cross-border insolvency proceedings in Pre-insolvency & Insolvency Guide, which you can see on Deloitte website.

Upcoming Deloitte Events in March: See more below



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Companies in all economic sectors, including finance & banking, that must submit tax profit declaration (form 101) for 2016 until March 27, will be subject to tax audits campaign.

Until the same deadline, March 27, the major taxpayers mentioned above are required to prepare transfer pricing documentation file for the transactions with related party exceeding certain thresholds, according to the Order 442/2016.

Impact on transfer pricing

In our opinion, companies that have become major taxpayers at the end of 2016, around 1,500 companies, should not have this obligation (to prepare transfer pricing file for financial year 2016), but the legal framework does not specify this. Therefore, tax controllers might request transfer pricing documentation file and, in case the company hasn't prepare it, they will estimate transfer pricing. The consequence is predictable. Besides a fine of 12,000 RON for failure to present the file, the companies risk to be imposed additional fiscal obligations and accessories.

Selection criteria for tax audits

The campaign announced by the tax authorities will be based on a risk analysis. From our experience, the criteria taken into account by the tax authorities are (but not limited to):

- Tax declarations not submitted or submitted after the deadline
- Fluctuation of financial results: profit / loss
- Losses in consecutive years in a period of more than three years
- Discrepancy between the form and the economic substance of the transactions
- Transactions with inactive companies or companies without valid identification code
- VAT refund not solicited even if the company has the right to solicit it or withdrawal of the application for VAT refund after filing it
- Inconsistencies between deliveries and purchases of goods / services declared by the taxpayer and its partners (analysis based on 394 declaration regarding the operations carried out on national territory)

The tax audits were announced after the budget revenues in the first month of 2017 were under the level estimated by the budget laws. In 2017, the tax authorities should collect 212.5 billion RON, with 13 billion RON more than last year.

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

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The guide is published in the context when the European insolvency law is being transformed. Change is being driven by two events - the new EU Regulation on Insolvency of 2015, and the harmonization project of EU member state insolvency laws. These events are expected to reduce legal obstacles and eliminate discrepancies among national insolvency laws in the EU, giving more predictability to banks and investors.

The guide can be found here:

<https://www2.deloitte.com/global/en/pages/legal/articles/europe-insolvency-proceedings-guide.html>

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Upcoming Deloitte Events

Sending employees abroad? Are you aware of the fiscal and legal impact?

Deloitte and Reff & Associates with support of BusinessMark Event Management organizes, on March 15, at Intercontinental Hotel in Bucharest, the workshop: „**International Mobility of Employees – Myths, Risks, Solutions**”.

Adrian Stoian, Senior Manager Fiscal Services, Deloitte Romania, Elena Gavrilescu, Senior Consultant Fiscal Services, Deloitte Romania, Gabriela Ilie, Associate, Reff & Associates and Raluca Balint, Associate, Reff & Associates will discuss about the correct framing of mobility situation, the impact of fiscal and legal obligations of the employers.

Retailers and distributors in digital era: Ready for challenge?

The conference dedicated to retail sector “**How to survive in digital era. First episode: Distribution**”, organized by Deloitte Romania, on March 29, at Grand Hotel Marriott, is the first from a series of events „Survival in the Digital Era”.

Dan Bădin, Partner in Charge Deloitte Romania, Cosmin Costea, Director Deloitte Digital & Leader SAP Hybris Central Europe, Peter Sedivy, Director Deloitte Digital Dusseldorf, Cristian Popescu, Managing Director SAP Romania will discuss about: integrated online orders with offline, data protection, fiscal and legal impact, tools and practical materials of marketing and commerce OmniChannel.

[Details and registration](#)



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