

Tax & Legal Weekly Alert

19 – 23 December 2016

In this issue:

The entry into force of Law no. 151/2015 on insolvency procedures applicable to individuals was postponed for 1 August 2017

According to a press release published on 16 December, in its meeting dated 15 December 2016, the Government approved, through an emergency ordinance, the postponement of the entry into force of Law No. 151/2015 on insolvency procedures applicable to individuals for 1 August 2017.

Draft orders regarding large and medium taxpayers

On December 13, 2016 were published two draft orders issued by the President of National Agency for Fiscal Administration regarding the organization of the administration activity for large and medium taxpayers.

15 February 2017 - Deadline for registration of economic operators that distribute and sell with or without storage, energy products, alcohol or tobacco

The validity of the current trade certificate for energy products, alcoholic beverages and / or tobacco products was extended to 15 February 2017.



The entry into force of Law no. 151/2015 on insolvency procedures applicable to individuals was postponed for 1 August 2017

Extending the deadline for the entry into force of Law No. 151/2015 with 7 months from the previously announced date (31 December 2016) is due to the delay in implementing the legal and administrative framework, necessary for enforcing such law.

The main reasons for extending the date of entry into force of Law No. 151/2015

Although the Law regulated concrete deadlines, according to a press release from the Government, the implementation steps intended for preparing its entry into force have not yet been finalized, certain measures still being needed for enforcing the Law, as follows:

- **Adopting the rules implementing the Law**, as required by art. 92 para. (2). Until now, a project of a government decision regarding the implementing rules has been drafted, and is now under approval process by the relevant ministries.
- **Establishing 42 regional insolvency commissions for monitoring and coordinating the insolvency procedure, as well as the necessary technical apparatus.** To this date, no commissions have been set up; however, Government Decision No. 11/2016 regarding the organization and functioning of the insolvency commissions was approved.
- **Ensuring the financial and human resources necessary for the functioning of the administrative framework.** The duration of the professional training program forming specialists in the field of insolvency procedures applicable to individuals is between 1 and 3 months.

In the context of lack of methodological norms for establishing rules and procedures applicable to personal insolvency proceedings, as well as the delay in the proposed implementation steps, not extending the date of the entry into force would lead to the impossibility of enforcing the procedure and to the existence of many problems in practice.

To this date, the emergency ordinance extending the deadline for the entry into force of Law No. 151/2015 on insolvency procedures applicable to individuals was not published with the Official Gazette.

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

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Draft orders regarding large and medium taxpayers

The main changes of the Order no. 3648 dated 15 December 2015 regarding the organization of the administration activity for large taxpayers are focused on:

- The introduction of the direct affiliation criterion by which legal persons controlling/holding directly at least 50% of the value/number of equities in a large taxpayer, as well as legal persons where large taxpayers control/hold directly at least 50% of the value/number of equities, acquires the quality of large taxpayers;
- New definition of the fiscal group criterion, by which the tax representative and the members of the fiscal group, defined according to Art. 269 par. (9) of Law no. 227/2015 regarding the Fiscal Code, as amended and supplemented, provided that one of them meet the selection criteria set out in this new order (basic criterion, criterion of continuity and specific criteria), are included in the category of large taxpayers;
- The restructuring of the basic criterion by introducing the concept of an aggregate value indicator consisting of 50% turnover, 30% declared tax liability and 20% staff costs;

The main changes of the Order no. 3649 dated on 15 December 2015 regarding the organization of the administration activity for medium taxpayers are focused on:

- New definition of the fiscal group criterion, by which the tax representative and the fiscal single members of the group, defined according to Art. 269 par. (9) of Law no. 227/2015 regarding the Fiscal Code, as amended and supplemented, provided that one of them meet the selection criteria set out in this new order (basic criterion, criterion of continuity and specific criteria) are included in the category of medium taxpayers.
- The restructuring of the basic criterion by introducing the concept of an aggregate value indicator consisting of 50% turnover, 30% declared tax liability and 20% staff costs;

When the two orders shall enter into force, Order no. 3648 of December 15, 2015 as well as the provisions of Order no. 3649 of December 15, 2015 shall be repealed

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

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15 February 2017 - Deadline for registration of economic operators that distribute and sell with or without storage, energy products, alcohol or tobacco

Today was published in the Official Gazette, the ANAF Orders extending the deadline for submitting the new application request from 20 December to 15 February 2017.

After 15 February 2017, the certificates issued earlier will cease to be valid.

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