

## Tax & Legal Weekly Alert

19 – 23 January 2015

### Articles in this issue:

#### Tax Changes

The new legislative changes are in relation with the construction tax, with the VAT registration procedure and with a decision issued by the Central Fiscal Commission.

#### 1. Changes to construction tax

##### The tax rate

The tax rate was reduced from 1.5% to 1% applied to the value of the closing debtor balances of the accounts corresponding to the constructions.

##### Computation

Starting with 2015, the value of the constructions booked would be diminished, among others, by the following:

- The value of buildings for which buildings tax is owed, as well as the value of the buildings situated in industrial, scientific and technologic parks that are not tax exempt from building tax according to the Romanian law;
- The value of the improvements made to rented buildings, administrated or in use buildings, or for those owned or that will be owned by the State;
- The value of buildings situated outside the Romanian state border, including those situated in the Romanian contiguous zone or in the Romanian economic exclusive zone;
- The value of the construction owned by the sport organizations as defined by the Romanian law.

*We would like to remind you that the construction tax is not recalculated during the year, any movements of the debtor closing balance of the accounts corresponding to the construction will be considered in the next year.*



## 2. The procedure for obtaining a VAT registration

The procedure for obtaining a VAT registration applicable for companies established in Romania as per Law 31/1990 was changed. The new procedure will be applicable starting with February 1<sup>st</sup>, 2015.

In brief, the evaluation criteria based on ratings from the old procedure were replaced by an evaluation performed by the tax authorities. As such, the tax authorities will evaluate the intention and capacity of the taxable persons to perform economic activities which lead to transactions subject to VAT or exempted of VAT. The necessary information for performing such an evaluation will be provided by the companies through form 088.

The Order of the president of the National Agency for Fiscal Administration no. 17/2015 regarding the criteria for obtaining the VAT registration replaces Order no. 2795/2011 and it was published in Official Gazette no. 16 on January 9<sup>th</sup>, 2015.

## 3. Central Tax Commission Decision no 6/2014 regarding VAT provisions on commercial agreements

The Central Tax Commission amended Decision no. 2/2011 by issuing Decision no. 6/2014 in order to get aligned with the ruling given by the Court of Justice of the European Union in the joint cases C249/12 and C250/12 Tulica and Plavosin.

- When the parties agreed that the value of the supply is exclusive of VAT, the legal VAT rate is applicable to the value of the goods/services;
- When the price of a good/service was established by the parties without mentioning VAT, the supplier is the person obliged to pay the tax and it doesn't have the possibility to recover the VAT from the beneficiary, then it is considered that the price includes VAT. The impossibility of recovering VAT from the beneficiary shall be demonstrated through an affidavit;
- When the parties agreed that VAT is included in the price of the supply, then the VAT is determined by applying gross-up.

Decision no. 6/2014 of the Central Tax Commission was approved through Order no. 1820/2014 of the Minister of Public Finance and published in the Official Gazette no. 20 on January 12, 2015.

If you have any questions regarding the details of the amendments, or require our assistance assessing your potential exposure, please do not hesitate to contact us.

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