

Tax & Legal Weekly Alert

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Articles in this issue

Tax Updates

New amendments brought to the Methodological Norms for applying the Fiscal Code.

By the Government Decision no. 421 dated 20 May 2014 amendments to the Methodological Norms for applying the Fiscal Code are brought with respect to corporate income tax, construction tax, withholding tax, value-added tax, as well as excise duties and other special taxes – [page 2](#).



New amendments brought to the Methodological Norms for applying the Fiscal Code

Government Decision no. 421 dated 20 May 2014 brings the following amendments to the Methodological Norms for applying the Fiscal Code:

Title II – Corporate income tax

Fiscal value

Clarifications are brought for taxpayers that apply IFRS accounting provisions and that use the fair value as deemed cost when implementing IFRS, regarding the following:

- the fiscal value of the fixed assets and land.
- the fiscal regime of the revaluation reserves related to fixed assets and land.

Comments regarding the tax exemption of the reinvested profit have been introduced

- Technological equipment production is defined as the taxpayer's own account production of such equipment.
- The reinvested profit in technological equipment is the accounting profit to which corporate income tax expenses are added, registered for the quarter/year when the equipment is put into function, without considering the taxpayer's internal or external financing sources for those assets.
- The tax exemption of the reinvested profit may be applied by the user of the financial leased equipment, with the fulfillment of certain conditions (e.g., maintaining the equipment for a minimum period, etc.).
- Numerical examples were included for applying the tax exemption of the reinvested profit.
- If the equipment is partially booked as assets in progress before 1 July 2014 and partially after this date, the tax exemption shall be applicable only for the part booked starting with 1 July 2014 and included in the value of the technological equipment put into function by 31 December 2016, inclusively.
- New technological equipment is the equipment which was not used prior to the acquisition date.

Title V – Withholding tax on income obtained by non-residents and tax on foreign company representatives in Romania

- Comments on the procedure for reimbursement of the tax withheld in excess is abrogated.

Titlul VI – Value Added Tax

The tax authorities are no longer restricted in applying reverse charge for situations where the supplier or the beneficiary are insolvent, inactive, suspended, radiated or have their VAT number canceled.

Title VII – Excise duties and other special taxes

The minimum value for the quarterly average volume of estimated outputs of excise goods is reduced from 100 tons to 30 tons for fiscal warehouses authorized exclusively to supply aircraft and vessels;

Methylene blue was removed from the list of products used for complete denaturing of alcohol;

Clarification regarding the place where the operations of marking and coloring of gas oil and kerosene can be performed have been brought:

- in case of intra-community acquisitions, intended to be used in an exempt purpose, marking and coloring will be performed in the Member State of expedition, the responsible person being the warehouse keeper authorized exclusively for supplying navigation fuel to vessels or the registered consignee from Romania;
- in case of import operations, marking and coloring shall be performed prior to release for free circulation, even in a third country, the responsible person being the warehouse keeper authorized exclusively for supplying navigation fuel to vessels.

Title IX³ – Construction tax

Taxable base

For the purpose of determining the taxable base of construction tax, the Methodological Norms bring clarifications in respect of the following:

1. The following categories are not subject to construction tax:
 - Constructions booked off balance sheet.
 - The value of the constructions disposed of, for taxpayers who apply IFRS and who set accounting policies specific to their activity for the depreciation of the fixed assets specific to the exploration and production of oil and gas resources, as well as other mineral substances.
 - The assets in progress booked in the accounting records and the value of the constructions owned by the state or by other administrative-territorial institutions.
2. The following categories are subject to construction tax:
 - The value of the buildings exempt from building tax according to the Fiscal Code (e.g., buildings for hydroelectric, thermoelectric plants, etc.), except for those which are owned or to be owned by the state or by other administrative-territorial institutions.
 - The value of the reconstruction, modernization, consolidation, modification or extension for the buildings which are rented, taken into concession or under management or use, if no building tax was due to the local tax authorities.

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