

Tax & Legal Weekly Alert

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The Regulation for issuing licenses in the sector of centralized thermal energy supply system was approved through Order no. 28, published in the Official Gazette of Romania no. 271 dated 19 April 2017.

Producers investing in renewable energy can benefit from two new support schemes

Up to 90 companies investing in in the area of energy production from biomass, biogas or geothermal energy resources or in the area of high efficiency cogeneration based on gas, biomass and residual gas can benefit from two new support schemes with a cumulated value of 182 million euro. The maximum grant for a project in both schemes is 15 million euro.

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The entities that have in their constitutive acts the 8 NACE codes stipulated by the Law 170/2016, but do not effectively carry on the respective activities, are not obliged to pay the specific tax, according to the methodological norms published on 14th of April.

The taxpayers that also obtain income from other activities than the ones subject to the specific tax are obliged to determine and pay simultaneously the specific tax and the corporate income tax, for the other activities.

For each activity, the taxpayers are obliged to keep separate accounting records and if they incur common expenses, a rational allocation method shall be used or the expenses will be spread proportionally with the weight of the corresponding revenues in the total revenues.

The incomes from interests, foreign exchange differences (other than the ones that correspond to accommodation/catering activities), sub franchise, recharging of food products, rental of spaces, etc. are subject to corporate income tax.

The services offered by a hotel Complex that do not correspond to the NACE codes stipulated in the Law (i.e. barber services, manicure, etc.) and the respective services were not covered by the pre-established services package offered to the tourists, are subject to corporate income tax.

The micro-entities are not subject to the specific tax.

The Romanian legal entities that opted for a modified fiscal year also apply the tax on the specific activities system, starting with 1 January 2017.

The fiscal losses registered by a taxpayer prior to applying the tax on specific activities can be recovered within the 7 consecutive years limitation, when the tax payer return to the corporate income tax regime. According to the norms, the period in which the taxpayer apply the specific tax is taken into consideration when the 7-year limitation is computed.

The legal entities return to the corporate income tax regime starting with the following quarter on which the operating permit/classification certificate for the HoReCa activities is permanently withdrawn.

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Regulation for issuing licenses in the sector of centralized heat supply system

Through Order no. 28 dated 5 April 2017, published in the Official Gazette of Romania no. 271 dated 19 April 2017, the Regulation for issuing licenses in the sector of centralized thermal energy supply system was approved (the Regulation). Up to the moment, the issuance, amendment, suspension or revocation of licenses granted in the centralized heat supply system area was included among the competences of the National Regulation Authority for the Public Utilities Community Services (ANRSC) based on the Regulation regarding the issuance of licenses in the sector of public utility services, approved by Government Decision no. 745/2007, as amended and supplemented.

The Regulation is the result of the amendments brought at the end of 2016, when the public service for heat supply was included among the competences of the Romanian Energy Regulatory Authority (ANRE), as per the provisions of Law no. 225/2016 which modified Law no. 51/2006 regarding the public utility services (Law 225/2016).

The provisions of the Regulation detail to the general conditions for obtaining licenses in the sector, the procedure for applying for such licenses, the conditions for amendment, suspension and revocation thereof.

Two new support schemes for renewable energy and high efficiency cogeneration

Two new legal acts were published in the Official Gazette of Romania no. 265 dated 14 April 2017 pursuant to which economic operators will be entitled to benefit from non-refundable grants in a total amount of approx. Euro 182 million in the area of energy production, namely Government Decision no. 215/14.04.2017 regarding the state support scheme for supporting high efficiency cogeneration investments (GD 215/2017) and Government Decision no. 216/14.04.2017 for the approval of the state support scheme for supporting investments which promote production of energy from renewable energy sources which are lesser exploited (GD 216/2017).

The support schemes are made available for an estimated number of 90 economic operators which shall invest in the area of energy production from biomass, biogas or geothermal energy resources or in the area of high efficiency cogeneration based on gas, biomass and residual gas. The incentives which may be granted per each project are up to Euro 15 million.

Aid scheme supporting investments which promote the production of biomass, biogas and geothermal energy

Approved by GD 216/2017, the scheme aims to attract investments for the production of electricity and thermal energy from several renewable energy resources that have not been fully exploited up to this moment. Therefore, the projects that could benefit from this financial aid must entail the following operations: (a) construction and/or modernization of the production capacities of electricity and/or thermal energy generated from biomass and biogas resources; (b) construction and/or modernization of production capacities for thermal energy produced from geothermal water.

- **Beneficiaries:** Electricity producers and/or thermal energy producers from biomass and/or biogas, thermal energy producers from geothermal water and the local administrations/ local administrative subdivisions and intercommunity development associations that implement or modernize plants which produce electricity and/or thermal energy from biomass and/or biogas, including through cogeneration;
- **Eligible Projects:** Projects that involve the construction of new production plants or the modernization of the current ones, which have not benefited from similar financial aids in the past 5 years before the date the financing request is submitted. Projects to be implemented in the Bucharest – Ilfov area are excluded;

- **Object:** The support scheme for the investments consists of the allocation of grants from national and EU funds, up to 45% of the eligible costs, but no more than Euro 15,000,000. The percentage can be increased up to 80% depending upon the localization area of the project and the size of the company. In all cases, the difference must be covered by the beneficiary, from self-generated or external financial resources, in a manner which cannot be requalified as state aid;
- **Duration of the scheme:** 21 December 2020, under the condition that the works are begun after the eligibility approval of the mount
- **Time limit for project implementation:** 21 December 2023.

Aid scheme on supporting investment in high efficiency cogeneration

The new aid support scheme approved by GD 215/2017 refers to projects of maximum 8MWE, which propose as actions: (a) implementation/modernization of the high efficiency electrical cogeneration plants running on natural gas or biomass at the companies level, and (b) implementation/modernization of the high efficiency electrical cogeneration plants running on residual gas from industrials processes at companies level. The aim of the measure is to support the construction or renovation of cogeneration plants that will assure the self consumption of a significant percentage of the amount of energy produced during self-industrial operations.

- **Beneficiaries:** Industry operators/the manager of industrial parks or the thermal energy distributor of an industrial park with energy consumptions over 200 toe/year, which can require an useful level of thermal energy for industrial operations with a duration of a minimum amount of 4.000 – 5.000 h/year and which require at the same time a sufficient volume of electricity which can be generated by cogeneration groups. The estimated number of beneficiaries rounds up to 50 operators;
- **Eligible projects:** Projects implying the construction and/or modernization of high efficiency cogeneration plants, which have not benefited from similar incentives within the past 5 years prior to the date when the financing request is submitted. The projects to be implemented in the Bucharest – Ilfov area are excluded;
- **Object of the support scheme:** The support scheme for investments consists in the allocation of grants from national and EU funds, up to 45% of the eligible costs, but no more than Euro 15,000,000. The percentage can be increased up to 80% based on the geographical localisation of the project and the size of the company. In all cases, the amount difference must be covered by the beneficiary, either from self-generated or from external financial resources, either way, in a manner which cannot be requalified as state aid;
- **Duration of the scheme:** 31 December 2020, under the condition that the respective works begin after the date when the eligibility approval of the project is issued;
- **Time limit for project implementation:** 31 December 2023.

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Upcoming Deloitte events in April

Romanian posted workers in EU/EEA/Switzerland: Are you familiar with all legal implications? Deloitte Seminar, April 27

How often do we hear about employee mobility and freedom of working in EU/EEA/Switzerland?

Freedom represents the possibility of action upon free will or desire. Does this definition also apply to international mobility? The answer is no. We have to respect the EU legislation, which provides a general frame and some recommendations, but also the legislation of member states, which have, in some cases, implemented these international provisions differently.

Therefore, the Romanian employers should be familiar with the international legislation, Romanian legislation and also with the legislation of the member state regarding at least employment, immigration, taxation and social insurances. More complicated than it seemed?

We will answer to all the questions during our seminar „Romanian mobility in EU/EEA” that will take place on April 27, at Impact Hub.

Monica Țariuc, Manager, Global Employer Services, Deloitte Romania and Alexandra Minescu, Senior Consultant, Global Employer Services, Deloitte Romania will discuss about:

- The key factors regarding mobility in EU/EEA
- The local implementation of EU legislation in each member state
- The local legal requirements and the associated risks (minimum salary, declarations, social security insurances)
- Monitoring of employee mobility

For more details and registration, please access the following link:

[International mobility of Romanian employees in EU/EEA](#)

Deloitte Tax & Legal in mass media: The proposal of taxing the global income and the draft of food commerce law commented by specialists of Deloitte and Reff & Associates

- The proposal of taxing the global income is commented by Dan Badin, Partner in Charge Deloitte Romania, for the press agency Agerpres:

<https://www.agerpres.ro/economie/2017/04/21/badin-deloitte-o-schimbare-majora-a-impozitarii-veniturilor-nu-trebuie-facuta-din-scurt-necesita-educarea-populatiei-si-rezolvarea-problemelor-administrative-11-58-28>

- Are we prepared from economic, administrative and cultural perspective for a decision of such magnitude? Raluca Bontas, Director Global Employment Services Deloitte Romania about the proposal of taxing global income:

<https://www.profit.ro/opinii/impozitarea-venitului-global-suntem-pregatiti-sa-trecem-la-un-sistem-bazat-pe-increderea-dintre-stat-si-contribuabil-16917790>

- The food commerce law is back in debate. Which are the solutions proposed by Silvia Axinescu, attorney at law Reff & Associates and Camelia Malahov, Director Deloitte Romania?

http://www.hotnews.ro/stiri-specialisti_deloitte-21723676-legea-comertului-alimentar-cum-putea-lectiile-trecutului-previna-greselile-viitor.htm



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