NEWSLETTER

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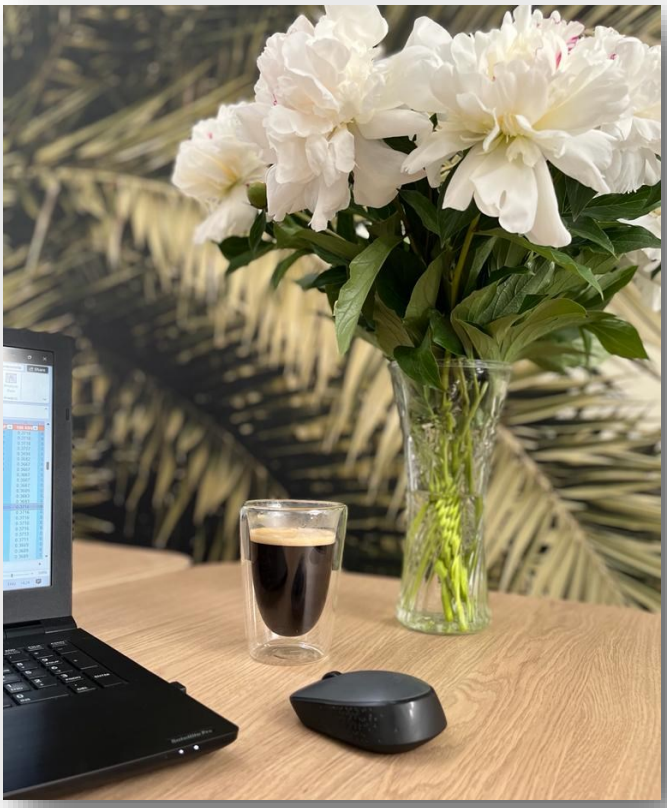

Top News:

- Clarifications have been published regarding the application of the 5% reduced VAT rate to the delivery of housing, as well as the regulation of the new register that will be used for this purpose
- Fiscal risk sub-criteria are also published and bring more transparency on how fiscal risk is determined
- Multiple ongoing tax and accounting regulation projects, among which we present the most important ones in this edition
- The new level of the minimum gross salary starting with 1 January 2023 is intended to be 3,000 lei

Summary

→ Clarifications on application of reduced 5% VAT rate for houses purchased by individuals (Law 301/2022)
→ Procedure to organise Register of houses purchased applying the reduced 5% VAT rate, starting from the 1st of January 2023 (Order 2053/2022)
→ Sub-criteria for fiscal risk developed from general criteria for fiscal risk approved (Order 2017/2022)
→ Amendments on taxation of income obtained from pensions from the 1st of January 2024 (Law 309/2022)
→ Procedure to publish the list of taxpayers with no outstanding obligations (Order 1923/2022)
→ The List of fiscal liabilities to be paid to the sole account has been updated, by adding 3 new contributions (Order 1985/2022)
→ New level of NBR reference interest rate (Instruction 37/2022)
→ ANAF clarification on submission of the annual form D406 (SAF-T file)
→ Combined list applied from the 1st of January 2023 (Regulation (EU) 2022/1998)
→ Other legislative news
→ Draft laws

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- Closing exchange rates for November 2022
- Social indicators

Law 301/2022 to approve GEO 31/2019 to grant certain fiscal facilities, to amend and complement Law 227/2015 on the Fiscal Code, to complement GEO 11/2018 to adopt certain budgetary measures and to amend framework Law 153/2017 on payroll for staff paid from public funds (Official Gazette 1107/2022)

Summary

The Law introduces a clarification regarding the phrase house that may be inhabited as such, in the Fiscal Code, this being one of the conditions to apply the reduced 5% VAT rate according to art. 291 para. (3) letter c) of the Fiscal Code.

Details

Houses that may be inhabited as such upon delivery are houses that meet the following conditions upon delivery:

- their owners have free individual access to the living space, without the possession and exclusive use of the space owned intruded upon by another person or family
- they have access to electricity and drinking water, controlled disposal of wastewater and household waste;
- they consist of at least one space for rest, one space for food preparation and a sanitary section, regardless of the existing facilities and the degree of completion upon delivery.

As a reminder, the now reduced 5% VAT rate is applied to:

- delivery of houses with a useful area of a maximum of 120 sqm, excluding household annexes, whose value, including the land where they are built, does not exceed RON 450,000, without VAT, purchased by individuals.
- delivery of houses with a useful area of maximum of 120 sqm, excluding household annexes, whose value, including the land where they are built, does exceed RON 450,000, without VAT, but does not exceed RON 700,000, without VAT, purchased by individuals, individually or jointly with another individual/ other individuals. Any individual may purchase, starting from January 1, 2022, individually or jointly with another individual/other individuals, only one house whose value exceeds the amount of RON 450,000, but does not exceed RON 700,000, without VAT, with a reduced 5% VAT rate.

The reduced rate only applies to houses that, upon delivery, **may be inhabited as such**.

Starting from January 1st, 2023, amendments are brought to the thresholds up to which the reduced 5% VAT rate is applied for the sale of houses to individuals.

- Reduction of the maximum threshold for which the reduced VAT rate is applied for houses. Maximum value should not exceed **RON 600,000**, without VAT. Any individual may purchase, starting from January 1, 2023, individually or jointly with another individual/other individuals, **one house** whose value does not exceed RON 600,000, without VAT, taxed at a reduced 5% VAT rate.
- Individuals who have concluded legal documents for advance payment to purchase a house with the reduced 5% VAT rate, prior to January 1st, 2023, will benefit from the conditions applicable through the 31st of December 2022.
- Register of houses purchased applying the reduced 5% VAT rate is organised in digital format starting January 1st, 2023.

More details were presented during our Tax Group Meeting, on the 9th of December: https://taxgroup.ro/calendar

Order 2053/2022 to approve Procedure to organise Register of houses purchased applying the reduced 5% VAT rate starting the 1st of January 2023 (Official Gazette 1144/2022)

Summary

The Order approves Procedure to organise the Register of houses purchased applying the reduced 5% VAT rate, starting from January 1st, 2023.

Details

The Register is organised in digital format and is managed through an IT application.

The guide on access to the Register by public notaries and its use are prepared by the National Centre for Financial Information, with the consultation of the National Union of Public Notaries of Romania and are made available to public notaries through the National Union of Public Notaries of Romania.

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The Register is completed/filed by public notaries on the date of authentication of legal documents between living persons having as its objective the transfer of ownership right for houses whose value, including the land on which they are built, does not exceed RON 600,000, without VAT, purchased by individuals, individually or jointly with another individual/other individuals, for which the reduced 5% VAT rate is applied.

The register is used in the situation where the seller of the property title is registered under the scope of VAT in Romania, according to art. 316 of the Fiscal Code, as well as if its VAT registration was cancelled according to art. 316 para. (11) letters a), c)-e) and h) of the Fiscal Code.

Information contained in the Register

The Register contains the following information:

a) **identification data of the buyer** – individual or individuals

These data are name, surname, and personal identification number (CNP).

In the case buyers are non-resident individuals, the identification data are the name and surname, personal identification number/fiscal identification number, date and place of birth, type, series and number of the identity document, the state issuing the identity document.

In the situation where the buyers are married, both spouses are recorded in the Register, except for the situation where, by convention, it has been established that the asset is acquired only by one spouse as his or her own asset. In this case only that spouse is recorded in the Register.

b) **identification data of the seller/sellers of the ownership right**.

These are the name and VAT registration code of the legal entity or other entity without legal personality or the name, surname, and VAT registration code of the individual. In the case of seller/sellers whose VAT registration code has been cancelled according to art. 316 para. (11) letter a), c)-e) and h) of the Fiscal Code, their fiscal identification code is registered.

c) **complete address of the house purchased** with the reduced 5% VAT rate, according to conditions provided by art. 291 para. (3) letter c) point 3 of the Fiscal Code;

d) **value, without VAT**, at which the economic operation was completed when the ownership right to the house is transferred, including the land on which it is built;

e) **number and date of the authentication report** issued for the legal document between the living persons whose objective is the transfer of the ownership right;

f) **identification data of the public notary who authenticated the legal document** between the parties whose objective is the transfer of the ownership right;

These are the name and surname of the public notary who authenticated the legal document recorded in the register, the fiscal identification code and the unique registration number from the National Registry of Public Notaries.

g) **identification data of the public notary who recorded the legal document** whose objective is the transfer of the ownership right, **in the Register** when registration is performed by a notary associated to the notary who authenticated the document;

These data are the name and surname, fiscal identification code and unique registration number from the National Registry of Public Notaries.

h) **date and registration number of the entry in the Register**, which are automatically generated by the IT application

Role of public notaries

Public notaries are responsible for recording the correct and complete information in the Register.

To abide by the law, public notaries will access the Register using a qualified digital certificate.

Public notaries are signed up in the IT application that manages the Register by the National Union of Public Notaries of Romania, with the following identification data: name, surname, personal identification number, fiscal identification code, unique registration number from National Registry of Public Notaries, qualified digital certificate, and professional e-mail address. Enrolment within the IT application is processed for public notaries authenticating legal documents and for public notaries performing registration within the Register.

The Register is consulted by public notaries to verify fulfilment of the condition related to the purchase, with the reduced 5% VAT rate, by any individual of one house that has a useful area of maximum of 120 sqm, excluding household annexes, whose value does not exceed the amount of RON 600,000, without VAT, according to art. 291 para. (3) letter c) point 3 of the Fiscal Code. Fulfilment of the condition is verified before authentication of the legal documents whose objective is the transfer of the ownership right or payment of an advance representing a partial or full payment

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of the value of a house which does not exceed RON 600,000, without VAT, applying the reduced 5% VAT rate.

After each record within the Register, as well as after each consultation of the Register, the public notary receives a certificate generated by the IT application. The certificate is attached to the documents of the authenticated act.

Correction of any material errors produced during registration is seen to by the public notary who entered the information in the Register for which it is necessary to correct the material error.

Special provisions to organise the Register in 2023

In 2023, notaries also record within the Register information from the legal documents authenticated in 2023, which have as their objective the transfer of the ownership right for houses whose value, including the land on which they are built, exceed RON 600,000, but does not exceed RON 700,000, without VAT, purchased by individuals, individually or jointly with another individual/other individuals, if they concluded by the 1st of January 2023, legal documents whose objective is the advance payment representing partial or full payment for the purchase of such a house.

Order 2017/2022 to approve sub-criteria for fiscal risk developed from general criteria for fiscal risk provided by art. 7 para. (7) of Law 207/2015 of the Fiscal Procedure Code (Official Gazette 1112/2022)

Summary

Following the risk analysis carried out by fiscal authorities, taxpayers may be qualified for one of the three main classes of risk: low, medium or high.

The risk analysis carried out by fiscal authorities is performed according to four general criteria established by art. 7 para. (7) of the Fiscal Procedure Code:

a) criterion on fiscal registration;

b) criterion on submission of tax returns;

c) criterion on declaration level;

d) criterion on fulfilling payment obligations towards general consolidated budget and other creditors.

The Order approves fiscal risk sub-criteria developed from the general criteria mentioned above.

Details

Development of the sub-criteria for fiscal risk is documented by referring to the risks of taxpayer non-compliance with obligations provided by the fiscal law, associated with the four general criteria.

Non-compliance risks are risks concerning fiscal registration, submission of tax returns, declaration level and the fulfilment of payment obligations towards the general consolidated budget and to other creditors.

Fiscal registration risks refer to issues related to taxpayer non-compliance, regardless of the legal form, from the perspective of meeting fiscal registration obligations.

Risks on the submission of tax returns refer to issues related to taxpayer non-compliance, from the perspective of meeting the obligations to submit tax returns, with complete data and on time.

Risks on the declaration level refer to aspects related to non-compliance by taxpayers, from the perspective of correctness, coherence, in accordance with the rate and amount of taxes and contributions declared in tax returns and in other forms provided by law and submitted by taxpayers.

Risks regarding fulfilment of payment obligations to the general consolidated budget and to other creditors refer to issues related to non-compliance of taxpayers, from the perspective of fulfilling payment obligations to the general consolidated budget and to third parties, as well as issues related to their solvency and creditworthiness.

The Order approves fiscal risk sub-criteria developed from the four general criteria mentioned above, as follows:

a) for the criterion on **fiscal registration**:

1. not registering under the scope of VAT;
2. not registering as corporate taxpayer;
3. not registering as specific taxpayer;
4. not registering as micro-enterprise income taxpayer;
5. not registering as excise duties payer;
6. not registering as income taxpayer, as well as payer of mandatory social contributions;
7. not registering fiscally when conducting activities, obtaining income and other situations provided by law for

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which there is the obligation to be fiscally registered;

8. risks associated with shareholders/associates/directors/other persons, from the perspective of fiscal registration;

b) for the criterion on **submission of tax returns**:

1. failure to submit tax returns by the legal deadline;
2. failure to submit tax returns;
3. erroneous submission of tax returns;
4. risks associated with shareholders/associates/directors/other persons, from the perspective of submitting tax returns;

c) for criterion on **declaration level**:

1. inconsistency between data mentioned in tax returns and data mentioned in other forms required by the law, submitted by the taxpayer;
2. inconsistency between the data mentioned in tax returns/data mentioned in other forms required by the law submitted by the taxpayer, and the data and information transmitted by third parties;
3. incorrect declaration of the rate and amount of taxes and contributions by the taxpayer;
4. reduction of profitability;
5. risks associated with shareholders/associates/directors/other persons, from the perspective of the declaration level;

d) for criterion on **fulfilling payment obligations towards general consolidated budget and other creditors**:

1. delayed payment of fiscal liabilities;
2. not paying fiscal liabilities;
3. insolvency;
4. risks associated with shareholders/associates/directors/other persons, from the perspective of fulfilling the payment obligations.

Law 309/2022 to amend Law 227/2015 on the Fiscal Code (Official Gazette 1109/2022)

Summary

The Law amends the Fiscal Code on taxation of income obtained from pensions, also including in this category the rights received in accordance with provisions of Law 1/2020 on occupational pensions.

Details

The Law amends how to determine taxable income obtained from pensions as follows:

- for amounts received as sole payment by the participants in private pension funds and their legal heirs, in accordance with Law 411/2004, taxable income represents amounts exceeding net contributions from participants to which each pension fund grants a single non-taxable income ceiling of RON 2,000;
- for amounts received as instalment payments by the participants in private pension funds and their legal heirs, in accordance with Law 411/2004, taxable income represents amounts that exceed net contributions from participants, to which the ceiling for non-taxable income for each monthly instalment from each pension fund applies;
- for amounts received as a sole payment by the participants in optional pension funds and/or to occupational pension funds and their legal heirs, in accordance with Law 204/2006 and Law 1/2020, taxable income represents the amounts that exceed net contributions from participants, to which each pension fund grants a single ceiling for non-taxable income;
- for amounts received as instalment payments by participants in optional and/or occupational pension funds, as well as their legal heirs, in accordance with Law 204/2006 and Law 1/2020, taxable income represents amounts that exceed net contributions from participants, to which the ceiling for non-taxable income for each monthly instalment from each pension fund applies.

New provisions enter into force from the 1st of January 2024.

Order 1923/2022 on Procedure to publish list of taxpayers with no outstanding obligations (Official Gazette 1058/2022)

Summary

The Order approves Procedure to publish the list of taxpayers without outstanding obligations.

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The purpose of publishing the list is to publicise taxpayers that are legal entities, which have declared and paid their fiscal liabilities on time and do not appear in fiscal records with outstanding obligations.

Details

To listed, the following conditions should be cumulatively met by taxpayers:

a) all tax returns, according to fiscal vector, are submitted, during the period of limitation of the right to establish fiscal liabilities, by the date when the list is prepared. This condition is also considered fulfilled if, for the periods when no tax returns were submitted, fiscal liabilities were established, through decision, by the fiscal authority;

b) have paid the main and additional fiscal liabilities in due time/upon payment date provided by the law, in the quarter for which the list is published;

c) does not register outstanding fiscal liabilities on the date when the list is prepared.

Taxpayers that have been declared in temporary inactivity which is registered at the Trade Register, according to the law, or that have been declared inactive according to the Fiscal Procedure Code, are not subject to publication.

The list includes the taxpayer name and fiscal code.

When preparing the list, information related to fiscal liabilities registered in taxpayer fiscal records, existing at the level of fiscal authorities, is taken into account.

When preparing the list, for taxpayers that have fiscally registered secondary offices, conditions mentioned above are checked both for their own activity and their secondary offices. In this case, the list includes taxpayers that have established fiscally registered secondary offices without mentioning their secondary offices.

The list is published quarterly, by the last day of the first month of the quarter, following the reporting quarter.

In the event that material errors and omissions are found regarding information contained in the list, the fiscal authority, on the basis of a report approved by its director, immediately processes, within the IT system, the changes on the published information for each taxpayer.

Material error means:

a) erroneous retrieval of data from existing fiscal records at the level of fiscal authorities;

b) erroneous publication of some taxpayers that, according to law, do not meet the criteria mentioned above.

The non-selection, by mistake, of some taxpayers that meet the criteria constitutes an omission from publication.

The list is published by fiscal authorities on their website and may be accessed directly at the following link: https://www.anaf.ro/restante/listaalba.xhtml or on ANAF webpage, section, Online Services, subsection, List of taxpayers with no outstanding obligations.

Order 1985/2022 to complement Annex to ANAF Presidential Order 1612/2018 to approve List of fiscal liabilities that are paid to the sole account (Official Gazette 1080/2022)

The Order updates the List of fiscal liabilities that are paid to the sole account, by adding 3 new contributions:

→ Social insurance contribution borne by the employer/payer of income, depending on the case;

→ Social health insurance contribution borne by the employer/payer of income, depending on the case;

→ Social health insurance contribution owed by individuals, retirees, who earn income from pensions, for the part of income that exceeds the monthly amount of RON 4,000.

Instruction 37/2022 on the level of NBR reference interest rate (Official Gazette 1078/2022)

Starting the 9th of November 2022, the level of NBR reference interest rate is 6.75% per year.

CLARIFICATION made by ANAF regarding the submission of Annual Informative Statement D406 Assets (SAF-T Assets)

ANAF published clarification on submission of the Annual Informative Statement D406 Assets (SAF-T Assets), used to declare fixed assets, on the 14th of November. Therefore, the clarifications are follows:

→ Fixed assets are reported annually, and the deadline is by the submission date of financial statements.

→ Answer no. 5, Section III *Questions on legislative context for D406 Report - SAF-T* of document posted on ANAF website - *FREQUENT QUESTIONS AND SPECIFIC ANSWERS TO SAF-T SCHEME* (page 49 of the document) is changed as follows:

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"Fixed assets are reported annually, and the reporting deadline is by the date of submission of financial statements. If the financial year ends on the 31st of March (modified fiscal year), for the 01.04.2021 – 31.03.2022 fiscal year, the concerned taxpayer (that has the obligation to submit SAF-T reporting, according to the law, from 01.01.2022) will not submit D406 Assets for this financial year.

This taxpayer will submit its first D406 Assets report for the 01.04.2022 – 31.03.2023 financial year, by the date of submission of the related financial statements for this year (i.e., 150 days from the end of the financial year, subject to legislative amendments that may occur in this regard)."

→ The general rule to submit the D406 Assets Report is to submit the statement the financial statement submission date, and only if, for the respective financial year, all mandatory D406 Reports (monthly or quarterly) were previously submitted.

Regulation (EU) 2022/1998 – Combined Nomenclature applicable from the 1st of January 2023

Starting the 1st of January 2023, the updated combined nomenclature will enter into force. This list may be accessed with the link below:

https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32022R1998&from=EN

The new combined nomenclature contains new tariff codes for a number of products, and the use of tariffcodes is necessary for customs operations, for preparation of Intrastat reports, for preparation of SAF-T Reports, electronic invoices (RO e-Factura) and declaration of operations in the RO e-Transport system.

Last but not least, tariff codes are also important when establishing the VAT regime, meaning application of reduced VAT rates or simplification measures (reverse taxation).

It is highly likely that ANAF will also update the list of tariff codes used for SAF-T Reports.

Order 4092/2022 to amend Technical and use specifications for basic elements of electronic invoices – RO_CIUS – and operational specific rules applied at the national level, approved by OFM 1366/2021 (Official Gazette 1148/2022)

The Order brings amendments to technical and use specifications for basic elements of electronic invoices – RO_CIUS – and specific operational rules applied at the national level. The amendments are important for those developing applications that are related to electronic invoices and the RO e-Factura system.

Order 1527/2022 to amend and complement Classification of positions in Romania – occupational level (six characters), approved by Order of the Minister of Labour, Family, Social Protection and Elderly and of the President of the National Institute of Statistics 1832/856/2011 (Official Gazette 1144/2022)

The Order brings new amendments to classification of positions in Romania – occupational level (six characters) – the new positions are:

→ coordinator for sport programmes
→ online content creator
→ logistician responsible for orders
→ e-commerce manager
→ logistics and distribution manager
→ recreational policies officer
→ hydroelectric plant operator
→ logistic platform operator
→ event organiser
→ registrar at the Trade Register
→ hotel technician.

Reclassification of some positions is also conducted.

Order 5964/2022 to approve Instructions to file electronic administrative document (e-DA) using the application EMCS-RO-Movements to control movements of excisable products applying the suspense or exempt regime (Official Gazette 1107/2022)

The Order approves Instructions to file electronic administrative document (e-DA) using the application EMCS-RO

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using the suspense or exempt regime.

Draft laws

Information within the draft laws presented below do not apply until they are published in the Official Gazette. We will keep you updated on their approval and publication in our future issues of the Nowium Newsletter.

Draft law aiming to reduce the period required to keep accounting ledgers and supporting documents

A draft law that passed in the Senate and is intended to be debated in the Chamber of Deputies, aims to amend the Accounting Law by reducing the period required to keep accounting ledgers and supporting documents from 10 years to 5 years. The 5-year period would be calculated from the 1st of January of the year following the end of the financial year when they were prepared.

There is a problem related to the statute of limitation period, which is also 5 years, but calculated from the 1st of July of the following year, the one for which the fiscal obligation is owed.

The draft law also provides a change on the period to keep fiscal data in electronic memory. Economic operators have the obligation to keep and archive fiscal memory for 5 years.

As a reminder, a change applicable from the 1st of January 2023 is already adopted, for payroll sheets. Thus, the payroll sheets from which the employer prepared an informative statement on the tax withheld, on income beneficiaries, according to the legal provisions (form 205) or for which the employer has the legal obligation to submit Return on social contributions, income tax and nominative list of insured persons (form 112), **are kept for 5 years**.

This draft law will apply upon publication in the Official Gazette.

Draft law to regulate certain accounting aspects

The draft law published by the Ministry of Finance aims to amend several accounting regulations provided by OPFM 1802/2014 (general regulations), OPFM 2844/2016 (IFRS) and OPFM 3103/2017 (NGO).

Most amendments concern OPFM 1802/2014. Those will be presented below, some of them being common to all three orders mentioned above.

Interruption of capitalisation of borrowing costs

There is a proposal to complete accounting regulations on conditions under which the capitalisation of borrowing costs is interrupted, considering that currently there are provisions related to the start and end date of capitalising borrowing costs. Thus, the as-yet unapproved proposal is for an entity to suspend the capitalisation of borrowing costs throughout extended periods when it is not actually working to make/obtain an asset with a long manufacturing cycle.

Costs related to construction of a tangible asset, directly attributable to it

Additional clarifications are provided on designing/planning expenses and obtaining authorizations. Thus, contracting services prior to obtaining construction authorization of a tangible asset, without being followed by expenditure, **is insufficient in order to have it recognized in the cost of the related asset.**

Advance payments from customers

Modification of current regulations with the following additions are proposed:

If a customer pays an amount prior to the transfer a good or service performed by the entity to the customer, the entity records a **debt** related to the contract when the payment is made. This represents the obligation of the entity to transfer to a customer the goods or services for which it has already received payment.

When cashing a payment from a customer in advance, the entity recognizes a debt related to the contract (account 419, "Customers - creditors") amounting to the value of the payment in advance for its obligation to transfer or be prepared to transfer goods or services in the future. **The entity eliminates from its record that debt and recognizes the revenue/income when it transfers those goods or services and thereby fulfils its contractual obligation.**

An entity may sometimes charge the customer a **non-refundable advance payment** when the contract enters into force or near that date (e.g., activation fees for telecommunications contracts, set-up fees for certain service contracts and initial fees for some supply contracts). **In this situation, the entity should determine whether the payment in advance received refers to a service provision**. If it represents a payment in advance for future services (amount recognized in account 472, "Deferred income"), it will be recognized as income when those future services are provided.

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Interim dividends

For dividends that are distributed quarterly, accounting regulations in force only provide how they are registered in accounting records by entities distributing dividends, not by entities receiving them. The proposal is for entities that **receive** interim dividends to recognize them as debts (accounting article 461, "Sundry Debtors"/analytically distinct = 467, "Debts related to distribution of interim dividends").

The settlement of amounts is made between dividends due based on annual financial statements of the entity that has chosen, according to law, to distribute dividends throughout the financial year (accounting article 467 ,"Debts related to distribution of interim dividends" = 461, "Sundry Debtors"/analytically distinct).

Acting in own name or as an intermediary – recognition of income

Examples of indicators proving that an entity acts in its own name or as an intermediary are introduced, thus determining how income is recognised.

Divesting intellectual property through licence agreement

Accounting regulations are amended with extensive provisions on the applicable accounting treatment when an entity grants the right to use its intellectual property to a customer.

General chart of accounts

The following new accounts are introduced:

- 467, Debts related to distribution of interim dividends
- 6053, Expenses related to natural gas consumption
- 6058, Expenses related to other utilities
- 694, Expenses related to corporate tax resulting from settlements in the field of corporate tax within the fiscal group
- 794, Income obtained from corporate tax resulted from settlements in the field of corporate tax within the fiscal group, as well as group 79, Income obtained from corporate tax.

Name of group 60 changes – Expenses related to inventory and other consumption, and the name of account 605 changes – Expenses related to utilities.

This draft law will apply upon publication in the Official Gazette.

Draft law on main aspects related to preparation and submission of annual financial statements and accounting reports of economic operators to territorial units of the Ministry of Finance, as well as to regulate certain accounting aspects.

Provisions of the Order are similar to those of OMF 85/2022 applicable to financial statements/accounting reports prepared as of December 31st, 2021. Compared to them, this draft law suggests reporting the following information separately:

- The identifier of the legal entity, reported through the Balance sheet/Statement of assets, debts and equity form - "Legal Entity Identifier" ("LEI") code. This will be completed only if the entity has an LEI code;
- Expenses related to natural gas consumption, within expenses related to utilities;
- Expenses related to corporate tax, specifically, on income obtained from corporate tax, resulting from settlements in the field of corporate tax within the fiscal group.

The draft law also proposes to extend the application of provisions of Order 450/2016 regarding a correction of errors contained within the annual financial statements/accounting reports and annual consolidated financial statements

This draft law will apply upon publication in the Official Gazette.

Draft Emergency Ordinance on certain fiscal budgetary measures, extension of certain deadlines, as well as to amend and complement certain normative acts

A new draft Emergency Ordinance takes into account several fiscal amendments, the most important are mentioned below:

Minimum wage in the field of construction

The minimum gross salary in the field of construction will increase starting January 1st, 2023, to RON 4,000 (RON 3,000 in 2022).

In the agriculture and food sector, there is no mention regarding an increase in gross minimum salary.

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Additional tax deduction for those paid with minimum wage

For the period, January – December 2023, in the case of employees working based on an individual labour contract, full-time, at the place where the basic function is located, income tax is not due and the monthly basis for calculating mandatory social contributions does not include the amount of **RON 200/month**, representing income from salaries and similar, if the following conditions are cumulatively met:

a) level of the monthly gross base salary established according to the individual labour contract, without including bonuses, is equal to the level of the **minimum gross salary per country** guaranteed in payment established by Government Decision, in force for the month to which the income is related.

b) gross income obtained from salaries and similar revenue according to the same individual labour contract, for the same month, does not exceed RON 4,000.

The condition provided at letter a) is not considered to be met if, during the period between the date of entry into force of the GEO and December 31st, 2023, the level of the monthly gross salary established according to the individual labour contract, without bonuses, is reduced.

The above provisions also apply under the same conditions in the following cases:

a) to employees working in agriculture and food sectors and do not benefit from the fiscal facilities provided by art. 60 point 7, art. 138^2 and art. 154 para. (1) letter s) of the Fiscal Code;

b) to income obtained from salaries and other similar revenue as defined by art. 76 para. (1) - (3) of the Fiscal Code obtained based on an employment relation.

The amount of RON 200 is reduced depending on various situations such as change in salary during the month, employment date of new employees during the month, the fraction of the month for which salary is determined, the date when the labour contract ceases.

For income related to 2023, the level of minimum salary used for the calculation of CAS and CASS for part-time labour contracts will be reduced by RON 200 per month.

Corporate tax/Tax on micro-enterprise income

If, subsequent to submitting the form to re-direct tax according to para. (4) of art. 42/art. 56 of the Fiscal Code, the corporate tax/tax on micro-enterprise income due for the year for which the redirection was made, is adjusted by being reduced, and the taxpayer redirected a higher amount than the amount that could have been redirected, then it will owe the difference redirected in addition to the State budget.

The procedure to determine and settle the difference in corporate tax/tax on micro-enterprise income that has been redirected, is set by ANAF Presidential Order.

Tax on income

Revision to the regulation regarding the condition of granting the tax facility for natural persons who earn income from wages and related in the construction sector, which aims the reporting method at the level of gross employment salary for 8 hours of work/day, in the sense of replacing the wording "of minimum 3,000 lei per month" with the wording "established according to the law for the construction sector," has been proposed.

The measure aims to correlate provisions of the Fiscal Code on conditions to grant fiscal facilities to natural persons who earn income in the construction sector with the regulations establishing minimum gross salary per country guaranteed in payment in the construction field.

Technical amendments are also proposed regarding the repeal of provisions on non-taxation of income representing voluntary health insurance, as well as medical services provided on a subscription basis, borne by the employer for its own employees, and whose value does not exceed the equivalent in RON of EUR 400 euro for each person and their inclusion in the monthly ceiling of 33%.

Fiscal facilities for early education

The suspension of fiscal facilities for early education is extended.

Submission of form 392 and 393 still suspended

The obligation to submit informative statements 392A, 392B and 393 continues to be suspended in 2023. The suspension applies starting 2017.

Extension of deadline to equip commercial vending machines with electronic fiscal cash registers

The deadline to equip commercial vending machines with electronic fiscal cash registers is extended by another year, by the 31st of December 2023.

This draft law will apply upon publication in the Official Gazette.

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INFO – Valuation of monetary items in foreign currency

The November closing NBR exchange rates to use for valuation of monetary items (cash on hand, receivables, payables) denominated in foreign currency, as well as receivables and payables denominated in RON but pegged to a foreign currency for collection/disbursement are:

1 EUR = 4.9184 RON; 1 USD = 4.7383 RON; 1 CHF = 4.9890 RON; 1 GBP = 5.6933 RON

SOCIAL INDICATORS 2022

2022 Contributions for dependent activities	**Employer and beneficiary (for activities considered dependent)** (% share)	**Employee and dependent worker** (% share)
Social security contribution (pension)	→ Nothing due for normal working conditions → 4% for special work conditions → 8% for special work conditions	25% (*)
Contribution to health insurance fund (calculated on gross income)	Not due	10% (*)
Income tax		10% (*)
Work insurance contribution	2.25% (*)	
Disability Fund (for employers with more than 50 employees)	4 x minimum wage for every 100 employees	
The amount of a taxable meal ticket in the sense of income tax	Maximum 30 lei (from 1 July 2022)	
Minimum wage (gross) starting 1 January 2022	→ 2.550 lei → 3.000 lei for employees in the construction field → 3.000 lei for employees in agriculture and food industry (from **1 June 2022**)	
Per Diem (in the country) For employees of public institutions For private sector employees (* 2.5)	 → 20 lei → 50 lei	

(*) If the employers in the field of construction, agriculture or food industry have a turnover of at least 80% of the activities defined by law, the following facilities apply for gross salaries between 3,000 lei and 30,000 lei:

→ the employee does not owe income tax and health insurance (CASS)

→ the pension contribution (CAS) due by the employee is reduced to 21.25%

→ reduction of the employer's insurance contribution (CAM) due from 2.25% to 0.3375% (applicable when the facility is approved as state aid)

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Growing Business Together

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