NEWSLETTER

Nowium - Finance / Tax / Legal
Uruguay Str. 11, District 1 - 011443 - Bucharest - Romania
Phone: +40 (0) 374 926 000
E-mail: office@nowium.com / taxgroup@taxgroup.ro
Web: www.nowium.com / www.taxgroup.ro

Issue 8 - December 2022

Top News:

- Micro-enterprises that recorded revenues of more than 500,000 euros, but less than 1,000,000 euros in 2022, can continue to apply this regime in 2023 if they meet the rest of the conditions
- All interim dividends distributed in 2022 remain taxed at 5%
- Tipping is again officially regulated and must be entered on the tax receipts from 1 January 2023
- Newly medium taxpayers from 1 January 2023 have to prepare SAF-T reporting faster than expected
- The new level of the minimum gross salary from 1 January 2023 is 3,000 lei, respectively 4,000 lei in construction field
- Important changes to the Fiscal Procedure Code and the manner of conducting fiscal inspections from 1 January 2023

Summary

→ Law to approve amendments to GO 16/2022 and clarification to the Fiscal Code, specifically on the regime of micro-enterprise taxation (Law 370/2022)

→ A new Ordinance amending multiple regulations in the Fiscal Code approved by the year's end (GEO 168/2022)

→ Hastily updated list of medium-sized taxpayers (Info ANAF)

→ Obligation to prepare SAF-T reporting for new medium-sized taxpayers starting January 1st, 2023 (Order 2518/2022)

→ Major amendments brought on the Fiscal Procedure Code and the manner in which fiscal inspections are conducted (GEO 188/2022)

→ Tips are once again regulated and subject to income tax, starting January 1st, 2023 (Law 376/2022)

→ New amendments brought to RO e-Transport system, without postponing application of the sanctions system (Order 2545/6315/2022)

→ Minimum gross salary per country is RON 3,000, starting January 1st, 2023 (GD 1447/2022)

→ Medium gross salary used for fundamental social insurance budget for 2023 is RON 6,789 (Law 369/2022)

→ Framework template for individual labour contract published (Order 2171/2022)

→ Facilities for IT developers extended to public sector employees, and conditions of

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scheme are updated (Order 4433/2246/6421/21813/2022)

- Form 212, Sole Tax Return - updated (Order 2541/2022)
- Amendments to regulations regarding parental/childcare leave following alignment of a European Directive into domestic law (GEO 164/2022)
- Norms to complete Intrastat Return are updated (Order 1623/2022)
- Procedure to set by default/ex officio fiscal obligations owed by individuals for certain allowances representing measures in the field of social protection and for certain income obtained abroad (Order 2420/2022)
- Other legislative news
- Closing exchange rates for the year of 2022
- Social indicators

Law 370/2022 to approve GO 16/2022 to amend and complement Law 227/2015 on the Fiscal Code, to repeal certain normative acts and other financial and fiscal measures (Official Gazette 1228/2022)

Summary

The Law approves GO 16/2022 to amend and complement the Fiscal Code and to repeal certain normative acts and other financial and fiscal measures. As a reminder, GO 16/2022 brought important amendments to the Fiscal Code, most of them applicable starting January 1st, 2023. The approved Law was anticipated with great interest, especially as various changes and corrections to the initial provisions were expected. More details about provisions of GO 16/2022 are in our July 2022 Newsletter https://nowium.com/bulletin/newsletter-3-iulie-2022/

Details

The main aspects amended or introduced by Law 370/2022 are presented below:

CORPORATE TAX

The types of research and development activities eligible for the additional deduction of 50% when determining taxable income have changed. They should be from the categories of applied research and/or experimental development activities, relevant to the activity carried out by taxpayers.

The term, *technological development,* is replaced by *experimental development*.

TAX ON DIVIDENDS

In the case of dividends **distributed** based on interim financial statements prepared during 2022, the rate of the tax on dividends is 5%, without recalculation of the tax on the respective dividends, after their settlement based on annual financial statements related to the financial year of 2022. Therefore, the 8% rate for taxes on dividends is applicable to dividends distributed starting January 1st, 2023.

TAX ON MICRO-ENTERPRISE INCOME

Two conditions for applying the regime of tax on micro-enterprise income are changed as follows:

- The new threshold of EUR 500,000 for annual earned income will be applied starting with income related to the year of 2023. Thus, in order to apply the micro-enterprise regime in 2023, the income threshold should not exceed EUR 1,000,000 on December 31st, 2022.
- To apply the micro-enterprise regime in 2024, income should not exceed EUR 500,000 on December 31st, 2023;
- Consulting and/or management revenue may not exceed 20% of total revenue. The Law introduces an exception to revenue from consulting on taxation, corresponding to NACE code: 6920 – *Accounting, bookkeeping and auditing activities; tax consultancy,* this revenue not being included in the limit of 20% of total revenue.

As a reminder, for a legal entity to apply the micro-enterprise regime starting in 2023, a regime applied by option, it is mandatory to have the following conditions cumulatively met on December 31st, 2022:

- annual income did not exceed the equivalent in RON of EUR 1,000,000 on December 31st, 2022/EUR 500,000 starting January 1st, 2023;
- share capital is owned by persons/entities other than the state and administrative-territorial units;
- Is not in dissolution, followed by liquidation, registered at the Trade Register or in courts, according to law;
- it has obtained more than 80% of income from activities other than consulting and/or management, except income from tax consultancy, corresponding to NACE code: 6920 — *Accounting, bookkeeping and auditing activities; tax consultancy*;
- has at least one employee;

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- has associates/shareholders holding more than 25% of the value/number of participation titles or voting rights with no more than three Romanian legal entities that meet conditions to apply the micro-enterprise taxation regime.

In the Hotel/Restaurant/Catering (HORECA) area, clarification is made regarding application of the micro-enterprise regime starting January 1st, 2023. Thus, in the field of HORECA, a legal entity will proceed as follows:

- for HORECA activities, the micro-enterprise regime may be applied even if the above conditions are not met - the criteria are not taken into consideration;
- if activities outside HORECA are also carried out, a separate analysis of the micro-enterprise regime criteria are performed. If the criteria are no longer met, the corporate tax regime will be applied for these activities effective the respective quarter. Subsequently, it will be impossible to opt for the micro-enterprise regime for activities outside HORECA field.

Practically, for the HORECA area, a company should separately analyse HORECA and non-HORECA activities and may apply:

- tax on micro-enterprise income for both activities;
- tax on micro-enterprise income for HORECA and corporate tax for non-HORECA activities.

The following NACE codes are considered related to HORECA:

- 5510 – Hotels and similar accommodation
- 5520 – Holiday and other short-stay accommodation
- 5530 – Camping grounds, recreational vehicle parks and trailer parks
- 5590 – Other accommodation
- 5610 – Restaurants
- 5621 – Event catering activities
- 5629 – Other food service activities
- 5630 – Beverage serving activities

TAX ON INCOME

Facilities in the construction field

The Law amends the method to calculate the share of revenue from construction activity. In this regard, the share is calculated by reporting income from construction activity carried out on the territory of Romania divided by income from the **entire activity carried out on the territory of Romania** (previously, income from all the activity was taken into account, including activity conducted beyond Romania's borders).

Activity carried out on the territory of Romania means activity effectively carried out in Romania for the purpose of making products and providing services.

SOCIAL CONTRIBUTIONS

Ranges for the calculation basis of CAS and CASS are clarified as follows:

- For CASS: the level of six national monthly gross minimum salaries, in force on the date of submission of the Sole Tax Return, in the case of income amounting between 6 and 12 gross national minimum salaries;
- For CASS and CAS: the level of 12 gross national monthly minimum salaries, in force on the date of submission of the Sole Tax Return, in the case of income amounting between 12 and 24 gross national minimum salaries;
- For CASS and CAS: the level of 24 gross national monthly minimum salaries, in force on the date of submission of the Sole Tax Return, in the case of income **amounting to at least 24 gross national minimum salaries**.

LOCAL TAXES

The effective date of the amendments on local taxes introduced by GO 16/2022, i.e., the unification of taxation between individuals and legal entities, and establishment of tax base according to information provided by the National Union of Public Notaries of Romania, is postponed until January 1st, 2025.

OTHER AMENDMENTS

Starting January 1st, 2023, the ceiling above which legal entities carrying out retail activities, as well as those providing services, are obliged to accept debit, credit or prepaid cards as a means of payment will change. The payments will be made through a POS terminal and/or other modern solutions, including applications that facilitate acceptance

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of electronic payments. Thus, the obligation applies to legal entities that, throughout a year, collect more than RON 50,000 (previously, the equivalent in RON of EUR 50,000) in sales through payment by customers described above.

Emergency Ordinance 168/2022 on certain fiscal and budgetary measures, prorogation of certain deadlines, as well as the amendment and complement of certain normative acts (Official Gazette 1186/2022)

Summary

The Ordinance brings multiple amendments and complements to a series of normative acts. A summary of this Ordinance while it was still a draft was presented in our November 2022 Newsletter.

The most important changes made to the Fiscal Code and the Labour Code are presented below.

Details

Minimum salary in the construction field

Minimum gross salary in the field of construction will be increased from RON 3,000 (2022) to RON 4,000 (starting January 1st, 2023). No increase in the minimum gross salary is mentioned for the food and agriculture sectors.

Additional fiscal deduction for those paid with minimum salary

During January-December 2023 period, in the case of employees who carry out activities based on individual labour contracts, employed full-time, at the location where the basic function is located, for **RON 200/month**, representing income from salaries, no income tax is due and the amount is not included in the monthly calculation basis for mandatory social contributions, if the following conditions are cumulatively met:

a) level of monthly gross base salary established according to the individual labour contract, excluding bonuses, is equal to **level of the national monthly minimum gross salary** guaranteed in payment established by Government Decision, in force for the month in 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 this GEO enters into force (December 9th, 2022) and December 31st, 2023, the level of monthly gross salary established according to the individual labour contract, without bonuses, is reduced.

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

a) 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) income obtained from salaries and other similar revenue as defined by art. 76 para. (1) - (3) of the Fiscal Code obtained based on employment the 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 and 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 to a reduced amount, and the taxpayer redirected a higher amount than the amount that could have been redirected, then it will owe the difference in redirected amounts 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

Fiscal facilities for early education

The suspension of fiscal facilities for early education is extended through December 31st, 2023. During the period of suspension, expenses for the operation of nurseries and kindergartens under the administration of taxpayers are considered expenses with deductibility limited to 5%, applied to the value of expenses with staff salaries.

Submission suspended for forms 392 and 393

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

Local taxes

An exemption from tax on buildings is granted for premises within private sanitary units where no economic activity is carried out.

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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, to December 31st, 2023.

INFO – List of medium-sized taxpayers, published on ANAF portal

Summary

The list of medium-sized taxpayers administered by county fiscal authorities and Bucharest Fiscal Administration for Medium-sized Taxpayers was updated, by ANAF Presidential Order 2521/ 13.12.2022, published on the ANAF web-site. The list is valid starting January 1st, 2023.

As of December 30th, the Order was not published in the Official Gazette.

Details

The updated list of medium-sized taxpayers and their secondary offices may be consulted by accessing this link.

Please note that the change in competent fiscal authority leads to the change of the Treasury and the accounts in which fiscal obligations are paid.

Order 2518/2022 to amend certain ANAF Presidential orders to organise activity to administer/manage large and medium-sized taxpayers (Official Gazette 1207/2022)

Summary

The Order updates the dates from which medium-sized taxpayers are required to submit Form D406 (SAF-T report) given the update of the list of medium-sized taxpayers.

Details

New provisions apply to those concerned upon update of the list of medium-sized taxpayers starting January 1st, 2023, as follows:

→ Taxpayers classified as medium-sized taxpayers on December 31st, 2021, but no longer in this category on January 1st, 2023:

- will have the obligation to submit Form D406 (SAF-T report) starting from January 1st, 2025;
- by option, they may submit Form D406 (SAF-T report) starting January 1st, 2023, the option being indicated by submitting a valid declaration/form for the first time. Afterwards, it will not be possible to disclaim/renounce the option.

→ Taxpayers classified as small-sized taxpayers on December 31st, 2021, and maintaining this classification throughout 2022, but starting from January 1st, 2023, they are classified as medium-sized taxpayers:

- will have the obligation to submit Form D406 (SAF-T report) starting January 1st, 2023.

As a reminder, taxpayers benefit from a grace period of 6 months in the case of taxpayers having the obligation to submit the SAF-T report monthly, 3 months in the case of taxpayers having the obligation to submit the SAF-T report quarterly.

Taxpayers using classified information or holding documents with classified technical specifications according to law or carry out classified contracts which require, according to legal provisions, special security measures to protect essential national security interests, are exempted from the obligation to submit form D406, to the extent in which the submission of form D406 would lead to the disclosure of information of the nature mentioned above.

The Order also specifies a new update to the list of large-sized taxpayers, which should be complete by December 10th, 2023.

At the same time, the fiscal representation criterion for the selection of medium taxpayers is repealed. Thus, non-residents represented by a medium-sized taxpayer are no longer part of the category of medium-sized taxpayers.

Emergency Ordinance 188/2022 to amend and complement Law 207/2015 on the Fiscal Procedure Code and to amend GEO 74/2013 on certain measures to improve and reorganise ANAF activity, as well as to amend and complement certain normative acts (Official Gazette 1272/2022)

Summary

The Ordinance brings important amendments to the Fiscal Procedure Code following implementation of the component, *"Entry into force of legal framework incident to the scope of activity of fiscal control structures,"* from the National Recovery and Resilience Plan of Romania (PNRR), assumed by ANAF, with the fourth quarter of 2022 as the implementation deadline.

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Details

Among the most important changes brought to the Fiscal Procedure Code, we mention:

- transmission of compliance notices by the fiscal inspection authority to taxpayers expected to be selected for fiscal inspection, in order to re-analyse the personal tax situation and, possibly, to declare and correct tax returns, as an alternative method of risk management. This measure is intended, on one hand, to encourage voluntary compliance to declare income by taxpayers, and on the other hand, it is the alignment of fiscal law to the good practices existing at the international level.
- In this context, random fiscal inspections will be limited in number at the ANAF level. Thus, during a calendar year, the maximum percentage of randomly selected taxpayers cannot exceed 10% of total of taxpayers selected for a fiscal inspection during that year, the rest being selected only based on risk criteria. Exceeding the 10% percentage represents a disciplinary offense, and the head of the fiscal inspection authority has the obligation to take measures to sanction the guilty persons;
- transmission of voluntary compliance notices, similar to the compliance notice sent in the fiscal inspection procedure, to individuals identified with fiscal risk by the authority responsible for verification of the personal fiscal situation;
- establishment of another mechanism for voluntary compliance by taxpayers/payers - communication of the class/subclass of risk in which the respective taxpayer/payer was classified, by the fiscal authority, upon taxpayer request (this measure goes into effect on January 1st, 2026);
- in the case of verification of an individual's personal fiscal situation, a risk analysis is performed by the structure at the level of the central apparatus of ANAF;
- establishment of defining elements for inspections specific to anti-fraud control activity carried out by anti-fraud authorities, so that there is no confusion between the different types of inspections and there is a unified terminology at the level of the related legislation;
- centralization, at the national level, of risk analysis and fiscal inspection activities – fiscal inspection authorities will have the competence to carry out fiscal inspections throughout the country in the case of fiscal receivables administered by the fiscal authority within ANAF;
- introduction of the possibility for the taxpayer/payer to request issuance of a provisional taxation decision after completion of half of the legal period for carrying out the fiscal inspection (e.g. after 90 days in the case of large taxpayers or 45 days in the case of medium taxpayers) in the situation where it was not informed by the fiscal inspection authority regarding completion of a fiscal period and a type of fiscal obligation;
- specifically mention the possibility of anti-fraud control bodies carrying out document verification throughout the country, for symmetry with the competence to carry out fiscal inspection throughout the country;
- clarification of the procedure to carry out document verification, by introducing some rules to establish the periods that may be subject to document verification depending on the identified fiscal risk, method of communication within the procedure which will be regularly carried out by electronic means of remote transmission, and also fiscal obligations that may be subject to this procedure;
- Definition of the fiscal file and fiscal inspection file, the inspected taxpayer having the possibility to request/ claim the fiscal inspection file;
- firstly, the fiscal authority should analyse the information it holds. The taxpayer may only be asked to provide documents with information that the fiscal authority does not already have;
- the general rule regarding the location of fiscal inspection is changed. Thus, this is usually carried out at the headquarters of the fiscal inspection authority. On the initiative of the fiscal inspection authority or at the motivated request of the taxpayer/payer, the fiscal inspection may be carried out at the taxpayer's/payer's workplace. The taxpayer's/payer's request is resolved within maximum 3 days from registration. If the request is not resolved within 3 days, it is tacitly accepted. The change in location where the fiscal inspection is carried out may also be performed during the fiscal inspection.

Law 376/2022 to amend and complement GEO 28/1999 on obligation of economic operators to use electronic fiscal cash registers (Official Gazette 1255/2022)

Summary

The Law complements GEO 28/1999 on fiscal cash registers, adding specific provisions on tips and its taxation.

Details

Thus, a tip represents any amount of money voluntarily offered by the customer, in addition to the value of goods delivered or services provided by economic operators carrying out activities related to NACE codes: 5610 – Restaurants and 5630 - Beverage serving activities. From a VAT perspective, the tip cannot be considered as a delivery of goods or a provision of services.

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The tip collected from customers is highlighted on the fiscal receipt, regardless of its collection method. As an exception, for the delivery of products to a customers' home, economic operators do not have the obligation to highlight the tip on the fiscal receipt. However, they may opt for the tip to be highlighted on the fiscal receipt, and the provisions below are fully applicable to them, with the possibility to adapt the form to the specificity of the field.

The above-mentioned economic operators have the obligation to give the customer a payment note, prior to issuance of the fiscal receipt, on which columns are provided with the level of the tip offered (between 0% and 15%) from which the customer may choose. The payment note should also contain another column where the customer may write the amount offered as tip, in absolute value, if he/she opts for this method of determining the value of the tip given.

It is forbidden for economic operators to condition, in any form, the delivery of goods or provision of services on receipt of a tip.

The tip is distinctly shown on the same fiscal receipt as the goods delivered/services provided and is entered in the database of the electronic fiscal cash register as an item named *Tips*.

If, upon customer request, an invoice is issued, then the tip is distinctly highlighted as well. Amounts representing tips, thus highlighted on the invoice, are registered in accounting records of economic operators or other paying entities as protocol expenses and having their fiscal regime, within the limit of the deductibility level set by the Fiscal Code

Amounts collected as tips are recorded in accounting records of economic operators in a payable account using a distinct analytic account and are fully distributed to employees, based on a nominal record. Economic operators establish, through an internal regulation, the procedure and method to distribute tips collected to employees.

From a fiscal point of view, amounts derived from collection of tips from the customer by the economic operator cannot be considered income of the economic operator, and their distribution to employees cannot be considered an expense.

Amounts obtained from collection and distribution of tips to employees are qualified as income from other sources and are subject to a 10% income tax rate (fiscal regime provided for by title IV - chapter X of the Fiscal Code) and no social contributions are owed.

Income tax owed by the employee is withheld when the tip is distributed by income payers and is paid to the state budget, according to art. 115 of the Fiscal Code. These amounts may not be reclassified as salary or similar income.

Failure to comply with the above provisions is sanctioned by fine from RON 2,000 to RON 4,000.

Order 2545/6316/2022 to approve Procedure to use and operate National RO e-Transport System to monitor road transport of goods with high fiscal risk (Official Gazette 1264/2022)

Summary

The Order amends the procedure to use and operate the RO e-Transport system. Thus, the area of applicability for the RO e-Transport system is extended to several categories of vehicles, and additional clarification is made regarding application of the system.

Details

The categories of road vehicles that are subject to monitoring in the RO e-Transport system are those with **a technically permissible maximum mass of at least 2.5 tons** (previously 3.5 tons), loaded with high fiscal risk goods with total gross mass of more than 500 kg or total value greater than RON 10,000, related to at least one consignment of goods that is the object of transport.

Clarification is made regarding gross mass and value of goods with high fiscal risk.

When determining **total gross mass of the goods** that are the object of a consignment of goods for which there is an obligation to declare it in the RO e-Transport System, packaging necessary for the commercialization and transport of the goods is also considered.

When determining **total value of goods with high fiscal risk** that are the subject of transport declared in the RO e-Transport system, the following will be taken into account:

- → the value of the transported goods does not include VAT;
- → in the case of commercial transactions settled in foreign currency, the conversion into RON will be made at the NBR exchange rate valid on the date when the transport is declared in the RO e-Transport system;
- → depending on the type of transaction declared in the RO e-Transport system, the value of the transported goods

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will refer to the known value according to commercial, financial or accounting documents, as the case may be, at the time of declaration.

Data declared in RO e-Transport system

For the transport of goods with a high fiscal risk carried out in multiple shipments, several UIT codes equal to the number of consignments of goods with a high fiscal risk that are the object of the respective transport are held.

If the documents held by the users do not contain data for classification of the transported goods in one of the categories of goods with high fiscal risk established in this regard, users have the obligation to declare data related to the transports **for all goods transported within the consignment of goods,** in the RO e-Transport System, with the exception of data relating to the category of goods (N.C. codes), net weight and value of the goods transported.

In the case of transport of goods with a high fiscal risk that are the subject of export through a **customs office located in another member state of the European Union**, the transport of goods with a high fiscal risk is declared for the **route between the place of loading located on the national territory to the border road crossing point at the exit from Romania**.

Goods not received or partially received

In the situation where goods with a high fiscal risk were **not received** or **partially received** by the beneficiary/consignee mentioned in the RO e-Transport system when the UIT code was generated, **goods not having been received will return to the sender based on the original UIT code.** The subsequent return of goods that have been received represents a new consignment of goods for which a new UIT code is required, obtained by the party returning the goods with high fiscal risk. In this case, after receiving the returned goods where the obligation to declare rests with the supplier, or after failure to carry out receipt of goods where the obligation to declare rests with the beneficiary, the declarant will mention the return in the "Transport Confirmation" area of the RO e-Transport system, selecting the option, "Confirmed" or "Partially Confirmed," followed by a notation of quantities returned in the "Confirmation Comment" data field. Data related to the return will be mentioned in the RO e-Transport system during the validity period of the UIT code.

Transport with several means of transportation

If goods with a high fiscal risk are transported at national level with several means of transportation: naval, rail, air, road, only the road transport component will be declared in the RO e-Transport system, a situation in which the location of loading, and also unloading, will be considered the place where the means of road transport will pick up or deliver, depending on the case, transported goods.

Non-transfer/stock at the disposal of the customer

To declare the transport of goods within commercial operations representing a non-transfer or inventory at the disposal of the customer, the declarants will select in the RO e-Transport system the similar transport option from the data field, "Operation type," followed by selection from the data field, "Purpose of the Operation," of an option in accordance with the destination of the transported goods.

Transports not finalized in due time

In the exceptional situation where the transport declared in the RO e-Transport system is not completed within the validity period of the UIT code (5 or 15 days), the declarant will deny the transport in the RO e-Transport system and resume the operation to declare the transport and **obtain a new UIT code**. Thus, after the actual movement of the vehicle on public roads, within the validity period of the UIT code, the declarant may select "Denied" in the "Transport Confirmation" area of the RO e-Transport system, mentioning the reason in the data field, "Confirmation Comment," and a new UIT code will be obtained according to new information.

Change of declared data in RO e-Transport system after obtaining the UIT code

During the 3 calendar days provided by art. 11 para. (1) of GEO 41/2022, but no later than the period of actual movement of the vehicle on public roads, data declared in the RO e-Transport system may be changed while keeping the original UIT code.

After the actual movement of the vehicle on public roads, the transport organizer will access the RO e-Transport system through its own SPV (Private Virtual Space) account to update information regarding identification of the road vehicle.

Other information

Rules to determine the value of undeclared goods to be confiscated by the authorities are specified.

Transport of goods with high fiscal risk representing agricultural products purchased from agricultural producers on the basis of sale/trade cards, as well as transport of goods with high fiscal risk carried out by agricultural producers who are individuals from both the holding site and the sales location, are not subject to declaration within the RO e-Transport system.

Transport of goods with high fiscal risk representing vegetable products that meet conditions provided by art. 3 para. (1)-(3) of Law 108/2014 on road transport of vegetable products on public roads, are not subject to declaration within

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the RO e-Transport system.

Decision 1447/2022 to set guaranteed national monthly minimum gross salary (Official Gazette 1186/2022)

Summary

The guaranteed national monthly minimum gross salary is RON 3,000/month, starting January 1st, 2023.

Details

Starting January 1st, 2023, the guaranteed national minimum gross salary is set in monetary terms, without bonuses and fringe benefits, at the amount of RON 3,000/month, for a regular work schedule with an average of 165.333 hours per month, representing RON 18.145 per hour.

Law 369/2022 on social insurance budget for 2023 (Official Gazette 1215/2022)

Summary

The Law approves the social insurance budget for 2023. Accordingly, the average gross salary used for the fundamental social insurance budget for 2023 is RON 6,789/month.

Details

Average gross salary earnings influence various fiscal limits, allowances and benefits, such as:

- Technical unemployment during the state of emergency - 75% of national gross average salary;
- Allowances related to days off granted to parents when school classes are suspended due to weather conditions or other extreme situations, as well as when school classes are suspended or limited due to the coronavirus epidemic - 75% of national gross average salary;
- Covering the cost of tourist and/or treatment services, including transport, provided by the employer for its own employees and their family members - capped at the level of the average national gross salary;
- Death benefits amounting to an average national gross salary for the death of the insured or retiree, or half of the average gross national salary upon death of a family member of the insured or retiree.

Law 368/2022 on State budget for 2023 (Official Gazette 1214/2022)

Order 2171/2022 to approve framework template for individual labour contract (Official Gazette 1180/2022)

The Order approves the framework template for an individual labour contract.

The individual labour contract concluded between employer and employee will include mandatory elements provided in the framework template. Through negotiation between the parties, the individual labour contract may also include specific clauses, according to law.

Order 4433/2246/6421/21813/2022 on classification within IT development activity (Official Gazette 1252/2022)

Summary

The joint orders of the Minister of Research, Innovation and Digitization, Minister of Education, Minister of Labour and Social Solidarity and Minister of Finance amends fiscal facilities granted to IT developers/programmers.

The changes aim the following:

- Extending the application of facilities to public sector employees;
- Introduces a new occupation that benefits from the facilities: IT software development engineer. This involves analysis and assessment of requirements for existing or new IT applications and operating systems (design, development, testing and maintenance of software solutions to meet these requirements);
- Changing certain requirements related to necessary documentation.

Details

Beneficiaries of the facilities

Employees of economic operators carrying out their activity on the territory of Romania in accordance with legislation in force, whose object of activity includes IT software development (NACE codes 5821, 5829, 6201, 6202, 6209), are exempted from paying tax on income from salaries if the following conditions are cumulatively met:

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a) job positions filled correspond to those mentioned in the appendix to the Order, sections 1 and 2;

b) job position is part of a specialized IT department, highlighted in the company's organizational chart as follows: computing centre, directorate, department, office, division, compartment, or similar;

c) eligible employees hold diplomas awarded upon graduating from short/long-term or Bachelor's studies, or they hold a high school diploma and are attending courses at an acknowledged higher education institution. These diplomas should be issued by an acknowledged higher-education institution, and they provide one of the activities mentioned in the appendix;

d) during the previous financial year, as a result of the activity to develop IT software destined to be sold based on a contract, the employer obtained and distinctively registers annual income in its analytical (detailed) trial balance;

e) annual income provided by letter d) has a value of at least the RON equivalent of EUR 10,000 (calculated at the average monthly exchange rate communicated by NBR, related to each month in which the income was registered) for each employee who benefits from the tax exemption.

The exemption provided above also applies to employees whose diplomas are equivalent or recognized, by specialized structures of the Ministry of Education, at the level of the diplomas mentioned in letter c) or with a high school degree and attending courses at an acknowledged higher education institution.

Exception from condition to generate income

Exceptions are provided to the condition of generating income from the activity of IT software development intended for commercialisation, exceptions allowing the application of the facilities in situations such as:

→ companies that are set up during the fiscal year benefit from an exception for the year established and for the following fiscal year;

→ companies that during the year underwent a reorganization according to the law, benefit from an exception for the year when the reorganization took place.

Application of facilities extended to public sector employees

Employees from public institutions benefit from an exemption from tax on income obtained from salaries, for the period when they carry out IT software development activities, according to specific skills and attributions set out in the job description, only if the conditions set above at letters b) and c) are cumulatively met.

The job positions assigned to IT software development activity are established by an administrative act of the head of the public institution and are provided for in the organizational chart of the employer where the employees are assigned.

In order to grant the fiscal facility to employees who fall under these conditions, the head of the public institution mentions in the job description at least one of the activities provided for in section 2 of the appendix to the Order.

IT software development activities

The period when they carry out IT software development activities represents the duration of the process to develop a software/program as approved by the competent management body of the employer.

The activity of IT software development, as provided by the Fiscal Code, represents the actual provision of one of the activities to develop software/programs corresponding to the specific occupations mentioned in the appendix to the Order or, depending on the case, corresponding to the job description updated for employees of public institutions.

Supporting documents

Supporting documents taken into consideration to qualify persons for exemption from tax on income, according to specific occupations and activities provided in the appendix to the Order, have been updated and certain requirements simplified (for example, authenticated copies are no longer required on certain documents, being replaced by certified true copies) or having the requirements updated so that employees of public institutions are included.

The full list of required documents is:

a) **constitutive act,** in the case of economic operators;

b) **employer's organisational chart**;

c) **job description**;

d) **certified true copy of education diploma, mentioning in conformity with the original,** granted after graduating short/long-term studies, bachelor's degree and, if the case, certified true copy of the document of equivalency, issued by specialty structures within the Ministry of Education, for individuals employed;

e) **graduation certificate for bachelor studies**, issued by the higher education institution if the diploma has not been issued yet, meaning a **certified true copy of the document of equivalency**, issued by specialty structures within the Ministry of Education, for individuals employed;

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f) **certified true copy of the high school diploma, meaning a certified true copy of the document of equivalency,** issued by specialty structures within the Ministry of Education, including employees that are currently attending courses organised by an acknowledged higher-education institution;

g) **certificate attesting the person attends higher education courses,** in the case where the employees hold a high school diploma or an equivalent but has not graduated from a short/long-term university or bachelor study programme. The certificate will specify the following: the university, normative act by which the university was acknowledged, faculty, study programme, form of education, including the year of study when requesting the certificate, school situation as proof of being a student, according to legal provisions in force;

h) if the employee holds a high school degree and document of equivalency, depending on the case, but has not graduated short/long-term higher education studies or Bachelor's studies, upon graduation with a diploma, the employer will request **a certified true copy of the diploma supplement**, in order to exclude periods of school interruptions from granting the tax exemption, if these interruptions were not declared by the beneficiary of the exemption;

i) **certified true copy of the individual labour contract/ administrative act of the head of the public institution** based on which the labour relation is carried out;

j) **payroll sheet separately prepared for employees benefiting from exemption from payment of tax on income obtained from salaries** and similar income;

k) **internal order,** approved by the employer's management that attests to the initiation of the process of IT software development;

l) **analytical trial balance** distinctively reflecting income obtained from the activity of IT software development.

The file containing all supporting documents will be kept at the employer's headquarters in case of an inspection. In the situation where the employer keeps the supporting documents in electronic format, they will be signed using an extended digital signature, obtained based on a qualification certificate, finalised by an approved supplier of services.

Facilities application

The exemption from paying tax on income from salaries and similar income is applied monthly, only to income from salaries and similar income, obtained from carrying out an IT software development activity, based on an individual labour contract, employment relation, special status provided by law or act of secondment, regardless of length of employment of the person benefiting from the exemption, and without being conditioned by his/her contribution to achievement of the minimum income ceiling provided above.

In the case of income from salaries and similar income obtained from carrying out IT software development activities on the territory of Romania, based on a secondment act, the exemption is granted in the situation where the employees provided for above and the payer of income meet the conditions provided by the Order.

The grant of the exemption is the responsibility of the employer/income payer.

The new provisions apply starting with income related to the month of January 2023.

List of job positions

1. Database admin

Activities to provide specialist expertise and practical assistance in the management of database systems and in the use of data to meet IT software requirements at any point, in accordance with defined quality criteria.

2. Analyst

Analysis activities to define specifications for the effective construction of IT software, likely to respond to user requirements.

3. Computer system engineer

Activities that combine analytical and design skills with appropriate knowledge of software and hardware technology to define, design, build, test, implement and modify computer systems that contain software as the main component.

4. Software engineer

Activities to adapt and/or harmonize hardware, software and operating systems solutions, as well as applications existing or designed as per real or estimated needs of users, in order to meet the requirements regarding satisfaction of the degree of request (response time).

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5. IT project manager

Activities to coordinate development systems specific to major IT applications, including staff coordination and tracking project requirements (required information/data, schedule, analysis). Project managers develop, plan, analyse, estimate and set priorities related to components to be performed/made, as well as the project's phases and deadlines.

6. IT programmer

Activities to develop software according to predefined specifications and assembling them into coherent systems, including testing to ensure compliance with specifications.

7. System designer

Activities that combine analytical and design skills based on specialist knowledge and knowledge on use of software tools or programming languages, in order to produce and implement functional solutions that meet predefined requirements or organizational needs.

8. Computer system programmer

Activities that combine analytical and design skills with adequate knowledge of software and hardware technology, in order to define, design, create, test, implement and modify computer systems that contain software as the main component.

9. Help desk programmer

Activities to provide technical support in the development of software according to predefined specifications and their assembly into coherent systems, including testing to ensure compliance with specifications.

10. Help desk analyst

Activities to provide technical support to carry out the analysis in order to define specifications for the effective development of IT software, likely to meet the user requirements.

11. Software development engineer

Activities to analyse and assess requirements for existing or new IT applications and operating systems: design, development, testing and maintenance of software solutions to meet these requirements.

Order 2541/2022 to approve template, content and methods to submit and manage Form 212, *Sole Tax Return on tax on income and social contributions owed by individuals* (Official Gazette 1246)

Summary

The Order updates template and content of form 212, *Sole Tax Return on tax on income and social contributions owed by individuals,* and its appendix.

Details

The form is used by individuals to declare tax on income and social contributions owed starting with the year 2022, as well as to declare tax on estimated income and social contributions owed starting 2023.

Emergency Ordinance 164/2022 to amend and complement GEO 111/2010 on parental/ childcare leave and monthly allowance - ICC (Official Gazette 1173/2022)

Summary

The Ordinance incorporates provisions of Directive 2019/1158/19 on work-life balance for parents and caretakers into domestic law. The Directive aims to introduce minimum standards at the European Union level by regulating paternity leave, parental leave and caretaker leave, encouraging both men and women to take leave in order to improve women's access to the labour market and for men to assume childcare responsibilities.

The main amendments and complements brought to GEO 111/2010 are the following:

- extending the non-transferable period of parental leave in the case of a parent who did not initially request this right, of between at least one month to at least two months of the total leave period, if both parents meet the legal conditions;
- increasing the level of income subject to tax that may be obtained by the parent during a calendar year, while on parental leave, from 5 to 8 minimum allowances for childcare (ICC), or from RON 6,500 to RON 10,512;
- recalculation of childcare indemnification ("ICC") amount in case of obtaining additional income, in the period before the child reaches the age of 2 years, 3 years in the case of a child with a disability, from court decisions/ certificates or income rectification documents;
- suspension or termination of ICC payment if the disability classification certificate expires during the period of parental leave;

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- → introduction of a notice period of at least 10 days that the employee gives to the employer when exercising his/her right to leave and to ICC, before the end of maternity leave or the estimated start date of parental leave, through a request, on paper or electronically, specifying the estimated period of parental leave;
- → maintaining, by the end of the parental leave period, employment conditions and salary rights held at the beginning of maternity leave or acquired along the way;
- → introduction of leave and accommodation allowance, granted to adoptive parents, similar to the period for obtaining the right to parental leave and ICC.

The Ordinance provides that, in the case of persons who obtain, during the same month, income both in the country and in EU states that apply Regulation 883/2004 on coordination of social security systems, but without overlapping periods of activity, to take into account, when granting the right to parental leave and ICC, amounts obtained in both countries.

It was also decided to increase the monthly allowance/ICC by 50% for children born from twin, triplet or multiple pregnancies, starting with the second child (50% added monthly to the parent's ICC for each child). The same measure will also apply for overlapping pregnancies; that is, for mothers who give birth during the period of childcare leave.

The new regulations apply starting January 1st, 2023. There is an exception regarding the regulations on the two-month increase in the period of non-transferability between parents, which applies both to applications submitted starting January 1st, 2023, and to those submitted previously and unresolved by this date.

Order 1623/2022 to approve Norms to prepare Intrastat Return (Official Gazette 1265/2022)

Summary

The Order approves the rules to file Intrastat Returns.

Intrastat threshold is RON 1,000,000 for shipments of goods and introduction of goods.

Details

An economic operator whose annual value for intra-EU imports of goods is equal to or higher than RON 1,000,000 should declare **the introduction flow**. An economic operator whose annual value for intra-EU exports of goods is equal or higher than RON 1,000,000 should declare **the shipment flow**.

Types of statistical returns according to the annual value of intra-EU trade in goods

Type of return	Intra-EU imports	Intra-EU exports
No obligation to submit Intrastat Return	less than RON 1,000,000	less than RON 1,000,000
Standard return, where all information is filled in, except statistical value	equal to or more than RON 1,000,000, but less than RON 10,000,000	equal to or more than RON 1,000,000, but less than RON 20,000,000
Extended return, where all information is filled in including statistical value	equal to or more than RON 10,000,000	equal to or more than RON 20,000,000

Order 2420/2022 to approve Procedure to set by default/ex officio fiscal obligations owed by individuals whose allowances represent measures in the field of social protection and for certain income obtained from abroad, as well as to approve template and content for certain forms

Summary

The Order approves the Procedure to set ex officio fiscal obligations owed by individuals for some allowances representing measures in the field of social protection and for certain income obtained from abroad, as well as the necessary forms.

Details

Reasons that led to approving the new procedure

Given the epidemiological situation determined by the spread of the SARS-CoV-2 coronavirus, measures were ordered in the field of social protection, whereby some professional categories (professionals, lawyers and individuals who obtain income exclusively from copyright and related rights) benefited from monthly allowances in case of interruption, reduction or suspension of activity.

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For the allowances granted, taxpayers owe income tax, CAS and CASS. Fiscal obligations are established by the taxpayer and declared through the *Sole Tax Return on tax on income and social contributions owed by individuals*.

The allowances granted this way represent income obtained from carrying out the activity, but they are declared separately. The income tax and related mandatory social contributions are also separately calculated. Also, this income is not taken into account when checking the classification within the ceiling provided by art. 148 para. (2) and art. 170 para. (2) of the Fiscal Code.

According to art. 139^1, art. 146 para.(12), art.147^1, art.157^2, art.168 para.(11), art.169^1 of the Fiscal Code, some categories of income similar to salaries (remuneration, allowances, other similar income, as well as any other advantages, in cash and/or in kind, obtained from abroad as members of the board of directors, members of the directorate, members of the supervisory board, administrators, directors, censors, founding members, representatives at the general meeting of shareholders or any other activities carried out in similar functions), CAS and CASS are due, which are declared on the *Sole Tax Return on tax on income and social contributions owed by individuals* - Chapter I. The above-mentioned provisions apply starting with the fiscal year of 2021.

At the same time, according to GEO 130/2021 on certain fiscal and budgetary measures, the extension of some deadlines, as well as for the amendment and complement of certain normative acts, starting with income obtained in 2022, fiscal obligations for income from pensions from abroad for which the contribution for social health insurance is owed are declared by the taxpayer through the *Sole Tax Return on tax on income and social contributions owed by individuals* - Chapter I.

Therefore, for the categories of taxpayers who have not fulfilled their declaration obligations on social insurance contribution, social health insurance contribution and/or income tax for allowances granted according to those mentioned above, meaning income similar to salaries for activity carried out abroad or obtained from pensions from abroad, the new procedure regulates the ex officio determination of fiscal obligations owed by individuals related to those types of income.

The procedure and forms are used for ex officio determination of fiscal obligations owed by individuals for allowances granted as measures in the field of social protection, as well as for certain income obtained from abroad, starting with the year 2021.

Decision 1448/2022 to set the quota of newly admitted foreign workers on the labour market in (Official Gazette 1186/2022)

For the year of 2023, a contingent of 100,000 newly admitted foreign workers on the Romanian labour market is established.

Order 2034/2022 to amend ANAF Presidential Order 1699/2021 to approve forms for fiscal registration of taxpayers and types of fiscal obligations that compose the fiscal status (*vector fiscal)* (Official Gazette 1181/2022)

Amendments are brought to Order 1699/2021 regulating the forms for fiscal registration of taxpayers and types of fiscal obligations which lead to a fiscal status.

Therefore, considering that starting January 1st, 2023, the specific tax no longer exists, it is removed from fiscal status, fiscal registration forms and instructions to complete them.

INFO - ANAF has published the Guide of associations, foundations and federations, non-profit legal entities

ANAF has published on its website, Taxpayer Assistance section, **the Guide of associations, foundations and federations, non-profit legal entities.**

The guide may be downloaded at the following link:

https://static.anaf.ro/static/10/Anaf/AsistentaContribuabili_r/Ghid_ONG_2022.pdf

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INFO – Valuation of monetary items in foreign currency for the year 2022

The 2022 closing NBR exchange rates to use for valuation of monetary items (cash on hand, receivable, 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 = 4.9474 RON; 1 USD = 4.6346 RON; 1 CHF = 5.0289 RON; 1 GBP = 5.5878 RON

SOCIAL INDICATORS 2023

2023 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 2023	→ 3.000 lei → 4.000 lei for employees in the construction field	
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 4,000 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

finance ▪ tax ▪ legal
NOWIUM

Nowium
Uruguay Street 11, District 1
011443 - Bucharest
Romania

Phone: + 40 (0) 374 926 000
E-mail: office@nowium.com
taxgroup@taxgroup.ro
Web: www.nowium.com
www.taxgroup.ro

Nowium is the One-Stop-Shop solution for integrated accounting, taxation, consulting, legal, payroll and transfer pricing services, founded by a team of experts with over 20 years of experience.

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Because we have a strong team of professionals, we have the necessary expertise and a mix of skills that allow us to address the most challenging requests from our clients. In addition, we know very well what each customer expects from us. We know how to adapt to each type of client and deliver them more than expected from a professional in the field.

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