NEWSLETTER

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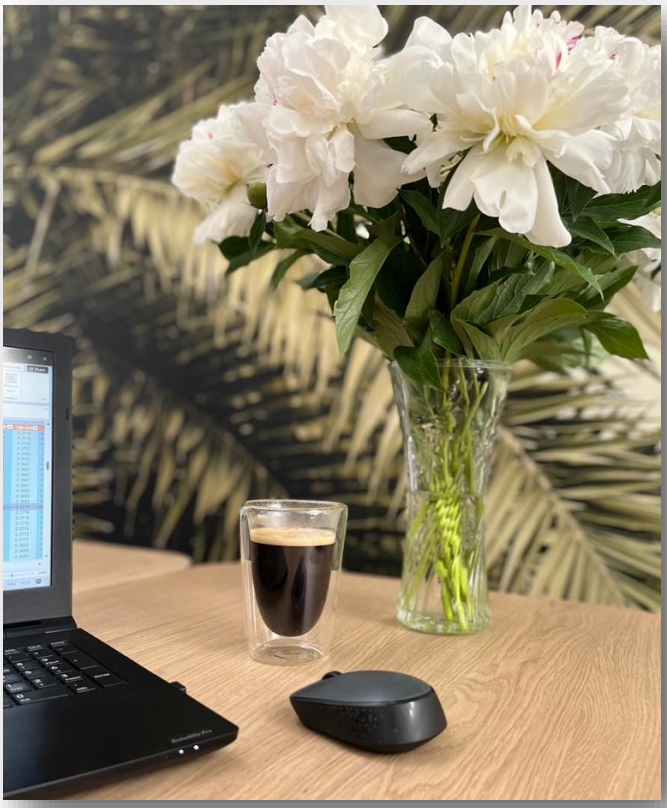

Top News:

- The option of registration under the scope of VAT upon company set up has been simplified
- The per diem ceiling has been increased
- New public holidays: January 6 and 7
- March 31 - deadline for registration with ANAF of rental contracts in progress on January 1, 2023
- Companies that apply the profit tax regime for the first time starting January 1, 2023 are required to prepare Fiscal Register
- Our monthly tax update programme - Tax Group - keeps your accounting team updated with the latest news and information - more details on www.taxgroup.ro
  Next Event: Wednesday, April 12, 2023

Summary

→ Option to register under the scope of VAT upon company set up at the Trade Register (Order 347/2023)
→ Corporate tax form (D101) for fiscal groups approved (Order 310/2023)
→ Updated amounts for daily and accommodation allowances (Order 1235/2023)
→ Amendments to sick-leave and social health insurance indemnities (GEO 10/2023)
→ Updated nursery vouchers (Order 1121/2023) and cultural tickets (Order 2748/2023)
→ New legal holidays added to the Labour Code (Law 52/2023)
→ Updated form 224 (Order 231/2023)
→ Other legislative news
→ Closing exchange rates for March 2023
→ Social indicators

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Order 347/2023 to amend certain normative acts on registration/cancelation of enrolment under the scope of VAT (Official Gazette 264/2023)

Summary

The Order simplifies formalities to register under the scope of VAT upon company set up, the option for VAT registration being made directly to the Trade Register.

Details

The Order amends regulations on VAT registration upon company set-up. Entities subject to the obligation to register at the Trade Register apply for VAT registration when submitting the application to register at the Trade Register. Template, content and filing instructions of the *Fiscal registration application* form were approved by joint Order of ANAF President and the Minister of Justice 2509/5672/C/2022, as an annex to the *Application to register at the Trade Register* form, to ensure the possibility of entities having the obligation to register at the Trade Register to apply for both: as a company and as VAT payer within the records of ANAF.

Prior to these new provisions, companies that requested registration at the Trade Register and registration under the scope of VAT, based on provisions of art. 316 para. (1) letter a) of the Fiscal Code, used form (098), *Application to register under the scope of VAT according to art. 316 para. (1) letter a) of the Fiscal Code*, which is submitted to the competent fiscal authority on the same day as the application was submitted to the Trade Register.

In order to simplify the process, by reducing the number of forms requiring submission by taxpayers to register under the scope of VAT, the format included on form 098 has been taken over in the *Fiscal registration application* form, that was approved by joint Order of ANAF President (2509/2022) and the Minister of Justice (5672/C/2022). Therefore, taxable entities applying for VAT registration upon company set up will fill in the appropriate fields of the Fiscal Registration Application, as an annex to the application to register at the Trade Register.

Given these simplifications, the Order repeals the template, content and filing instructions for form (098), *Application to register under the scope of VAT according to art. 316 para. (1) letter a) of the Fiscal Code* and amends provisions of Procedure to register under the scope of VAT, according to provisions of art. 316 para. (1) letter a), b) or c) of the Fiscal Code, approved by ANAF Presidential Order 239/2021.

Taxable entities that are not subject to registration at the Trade Register, applying for VAT registration according to art. 316 para. (1) letter a) of the Fiscal Code, submit the fiscal registration form to the competent fiscal authority. In this situation, the fiscal registration form is submitted on the occasion of the first fiscal registration, usually upon establishment, and the application to register under the scope of VAT is performed by filing the form, *Data on the fiscal status – vector fiscal*, in the VAT section of forms D010 or D700.

Taxable entities requesting VAT registration, according to provisions of art. 316 para. (1) letter b) or c) of the Fiscal Code, submit a declaration of mentions, having completed and subsequently filed the VAT section of form, *Data on the fiscal status – vector fiscal*, with the competent fiscal authority.

Returning to Order 347/2023, it also regulates the situation in which a taxable entity for whom the VAT registration procedure is applied ex officio meets one of the situations to cancel VAT registration. Thus, for the application of unitary fiscal treatment to taxable entities, the procedure provided by OPANAF 239/2021 will be applied, regardless of whether they request VAT registration or are subject to the ex officio VAT registration procedure. In this sense, in the case when the ex officio VAT registration procedure is applied, the fiscal authority simultaneously carries out both the VAT registration and the cancellation if one of the cancellation situations provided by art. 316 para. (11) letter a) or c) of the Fiscal Code is valid (cases of inactivity or deeds registered in the fiscal record).

ANAF mentions that the application of unitary fiscal treatment is also imposed by the effects produced by the cancellation of registration under the scope of VAT. Thus, according to provisions of art. 11 of the Fiscal Code, taxable entities whose VAT registration has been cancelled ex officio do not benefit, during the respective period, from the right to deduct VAT related to purchases made but are subject to the obligation to pay the collected VAT related to taxable operations carried out during that period. These provisions are applicable regardless of the VAT registration type (ex officio or upon request), when decided by the fiscal authority.

Order 310/2023 to approve template and content of form 101, Fiscal Group *Consolidated statement on corporate tax determined by the fiscal group*, as well as to amend and complement ANAF Presidential Order 3386/2016 to approve template and content of form 101, *Corporate tax return* and form 120, *Excise duties tax return* (Official Gazette 201/2023)

Summary

The Order approves template, content and instructions to file form 101, Fiscal Group *Consolidated statement on corporate tax determined by the fiscal group*. The form is used to declare corporate tax owed by fiscal groups starting the fiscal year of 2022.

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Details

The form is completed and submitted by the legal entity responsible for determining the consolidated fiscal result of the fiscal group in the field of corporate tax. The deadline is March 25th of the following year/the 25th of the third month from the closing of the modified fiscal year.

If at least one of the members of the fiscal group falls under the provisions of GEO 153/2020 for the establishment of fiscal measures to stimulate maintenance and increase equity, during the period when the respective provisions apply, the responsible legal entity has the obligation to submit the form by June 25th of the following year, meaning by the 25th of the sixth month from the end of the modified fiscal year, as the case may be.

The form is submitted by electronic means (SPV).

Order 1235/2023 to update amounts for daily and accommodation allowances provided by Annex of GD 714/2018 on rights and obligations of public authorities and institutional staff when in delegation/secondment to another locality, as well as in the case of travel for work purpose (Official Gazette 261/2023)

Summary

The Order updates the amount of daily and accommodation allowances for staff members of public institutions. The previous update was made on January 1st, 2019.

Details

Starting April 1st, 2023:

- daily allowance increases from RON 20 to RON 23 per day;
- accommodation allowances increase from RON 230 to RON 265.

The update of delegation/secondment allowances for the staff of public institutions also attracts the increase in one of the two criteria that are taken into account when establishing the non-taxable nature of these allowances in the private sector. Thus, from April 1st, 2023, one of the two ceilings for the private sector reaches RON 57.5 (RON 23 x 2.5) from RON 50.

As a reminder, starting May 2022, the capping of delegation/secondment allowances is also based on the value of three base salaries corresponding to the job position held. This ceiling is calculated by relating the three salaries to the number of working days for the month in question, and the result is multiplied by the number of days of delegation or secondment is in the country.

The amount that exceeds the non-taxable ceiling is considered salary and is subject to all taxes and social contributions.

Emergency Ordinance 10/2023 to amend and complement GEO 158/2005 on sick leave and social health insurance indemnities (Official Gazette 218/2023)

Summary

The Ordinance brings amendments to regulations on sick-leave and social health insurance indemnities, amendments according to which individuals who are optionally insured under a contract for sick-leave and social health insurance indemnities may insure themselves on the basis of monthly income entered on the tax return submitted for the payment of health insurance contributions or, as the case may be, to the average of the monthly income entered on tax return.

Details

The monthly income entered in the insurance contract cannot exceed the value of three minimum gross salaries per country for any insured risk, including pregnancy and childbed.

As a reminder, individuals, other than employees and their equivalents, may optionally conclude a contract with the Health Insurance House for sick leave and medical indemnities. The amount of these indemnities is determined according to the monthly income entered in the contract, based on a calculation formula.

Insurance contracts in progress on March 16th, 2023, which have an insured monthly income higher than the income entered on the tax return submitted for the payment of the social health insurance contribution or, as the case may be, higher than the value of 3 minimum gross salaries per country, for insurance contracts for maternity leave and indemnity, are changed by additional acts by the 1st of the month following the end of the 60 days period from publication of the Emergency Ordinance in the Official Gazette (May 15th, 2023). For these insurance contracts, the basis for calculating maternity indemnities is the average of the applicable employee's income entered in the insurance contract for the last 6 months of the most recent 12 months of the contribution period.

Application norms for GEO 158/2005 should be amended within 30 days from publication of this Ordinance (April 15th, 2023).

Order 1121/655/2023 to set value of the indexed monthly amount to be granted in the form of nursery vouchers for the first half of 2023 (Official Gazette 258/2023)

The Order updates the value of nursery vouchers.

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Starting the month of April 2023, the monthly value of nursery vouchers is RON 600 (previously RON 570).

The value set above applies by September 30th, 2023.

Order 2748/2023 1098/2748 2022 to set value of the indexed monthly amount to be granted in the form of cultural tickets for the first half of 2023 (Official Gazette 246/2023)

The Order updates the value of cultural tickets.

For the first half of 2023, the amount granted in the form of cultural tickets, monthly or occasionally, is a maximum of RON 200/month or a maximum of RON 400/event.

Previously, the amounts granted were RON 190/month, or RON 380/event. The new values are applicable for the period of April to September 2023.

Law 52/2023 to complement para. (1) of art. 139 of Law 53/2003 – Labour Code (Official Gazette 186/2023)

The Law adds two new legal holidays in the Labour Code, applicable to all employees:

- January 6th – the Epiphany
- January 7th – Saint John the Baptist

As a reminder, other legal holidays already mentioned in the Labour Code are:

- January 1st and 2nd (first and second day after New Year's Eve);
- January 24th (day of the Unification of the Romanian Principalities);
- Good Friday (Friday before Easter) + first and second day of Easter;
- May 1st (Labour day);
- June 1st (Children's day);
- First and second day of Pentecost;
- August 15th (the Assumption);
- November 30th (Saint Andrew's Day);
- December 1st (National Day of Romania);
- December 25th and 26th (first and second days of Christmas).

Order 231/2023 to amend and complement Annex no. 5 of ANAF Presidential Order 3780/2017 to approve template and content for certain forms used to manage tax on income (Official Gazette 179/2023)

The Order amends form 224, *Statement of salary income obtained from abroad by individuals who carry out activity in Romania*, as well as the filing instructions.

The new form is used to declare tax on income obtained beginning February 1st, 2023. Starting that date, the value of subscriptions to use sport facilities is also declared on form 224.

Instructions 1/6218/2023 to approve Norms to calculate, withhold and pay tax on capital gain obtained by individuals from transfer of securities (Official Gazette 181/2023)

The Instructions approve Norms to calculate, withhold and pay tax on capital gains earned by individuals from transfer of securities.

Order 1178/2023 to approve Procedure to issue anticipated individual fiscal solution – *SFIA* (Official Gazette 263/2023)

The Order approves the new Procedure to issue anticipated individual fiscal solution.

The anticipated individual fiscal solution produces effects only for taxpayer/payer requesting it and/or the entities listed in its content, considering the information and circumstances presented.

The anticipated individual fiscal solution is not applicable to other taxpayers/payers or entities and is not opposable to the fiscal authority in relation to other taxpayers/payers, even if there are similar circumstances.

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Decision 181/2023 to amend and complement Title VIII, "Excise duties and other special taxes" included in Methodological Norms to apply Law 227/2015 of Fiscal Code, approved by GD 1/2016 (Official Gazette 187/2023)

The Decision brings amendments on Title VIII, "Excise duties and other special taxes," included in Methodological Norms to apply the Fiscal Code, among which we mention:

- Introduction of provisions regarding situations in which excise duties can be remitted, as well as the procedure to remit excise duties;
- Regulation of procedure to be followed in the case of movement of excisable products that have been released for consumption on the territory of a Member State of the European Union and are delivered to the territory of another Member State for commercial purposes.

INFO – Registration of rental contracts/agreements with ANAF

As a reminder – March 31st, 2023 is the deadline to register rental contracts that are valid on January 1st, 2023.

Individuals obtaining income from rental activities, other than lease of agricultural land and rental, for tourist purpose, of rooms located on personal property, have the obligation to register the contract concluded between parties with the competent fiscal authority, as well as its subsequent amendments, within maximum 30 days from the signing or the occurrence of the change.

Rental contracts in progress on January 1st, 2023, as well as the changes that have occurred, are registered with the competent fiscal authority within a maximum of 90 days from the date on which the registration obligation came into force.

INFO – ANAF info release on the application for micro-enterprise regime in 2023 by companies that were micro-enterprises on December 31st, 2022

Legal entities, which in 2022 applied micro-enterprise regime and in 2023 meet the conditions provided by law to apply the same regime, do **NOT** have the obligation to notify the competent fiscal authorities regarding the application of the micro-enterprise regime by submitting a declaration of mentions (form 700 or, as the case may be, form 010) since there is no change on the fiscal status (*vector fiscal*).

As a reminder, in accordance with provisions of art. 88 para. (1) of Law 207/2015 on the Fiscal Procedure Code, with its subsequent amendments and complements, taxpayers are required to submit a declaration of mentions in case of subsequent changes to the fiscal status recorded in the fiscal registration declaration.

INFO – Obligation to prepare Fiscal Register by payers of corporate tax

In accordance with provisions of Order 870/2005 of the Fiscal Register, taxpayers registered as payers of corporate tax are obliged to prepare the **Fiscal Register**.

The purpose of the Fiscal Register is to record all the information that was the basis to determine taxable profit and the calculation of the corporate tax contained in the tax return on payment obligations to the General Consolidated Budget.

Registration in the Fiscal Register is made for each period for which the taxpayer has the obligation to declare corporate tax. The operations registered in the Fiscal Register are at the taxpayer's discretion, depending on the specifics of activity and its own needs, but the information should be recorded in chronological order and should correspond to fiscal operations and the data on corporate tax mentioned in the tax return on payment obligations to the General Consolidated Budget.

Fiscal Register may be kept/prepared:

- in physical format, which is obtained paying a fee to the fiscal units in the territorial area where the company has declared its fiscal domicile, within:
  - 30 days from registration, in the case of newly set up/created corporate taxpayers;
  - 30 days from the date when they have become corporate taxpayers, in the case of those that no longer meet conditions to be payers of tax on micro-enterprise income.
- in electronic format, in compliance with provisions of Law 82/1991 on the use of computer systems for automatic data processing.

Provisions related to the Fiscal Register are also found in the Fiscal Code, art. 19 para. (7), as well as in its Application Norms. Thus, it is specified: "Revenue and expenses registered according to the applicable accounting regulations should be recorded in the Fiscal Register, according to art. 19 para. (1) of the Fiscal Code, non-taxable income according to art. 23 of the Fiscal Code, tax deductions, elements similar to income, elements similar to expenses, non-deductible expenses, according to art. 25 of the Fiscal Code, as well as any information contained in the tax return, obtained as a result of processing certain data provided by the accounting records. The highlighting of revenues and related expenses is carried out on an economic basis, by totalling them per quarter and/or fiscal year, as the case may be."

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INFO – May 25th, 2023 – deadline to submit Sole Tax Return

ANAF has issued a press release regarding the submission of the Sole Tax Return.

The deadline to submit Sole Tax Return regarding tax on income and social contributions owed by individuals (form 212) is May 25th, 2023.

We recommend that the Sole Tax Return be submitted electronically, using one of the following remote communication channels:

- through Virtual Private Space service (SPV);
- on the website https://www.e-guvernare.ro, using a qualified/ certified digital signature.

To complete and submit the Sole Tax Return, taxpayers may request support as follows:

- calling the Central Phone Assistance Service for taxpayers – call-centre – 031.403.91.60.
- via e-mail, accessing the contact form available at the following link https://www.anaf.ro/asistpublic/ and in SPV.

In addition, video materials regarding download, filing and submission of the Sole Tax Return will be uploaded on both ANAF Facebook page and on its YouTube channel.

Other detailed information on the Sole Tax Return may be accessed at the following link:
https://static.anaf.ro/static/10/Anaf/AsistentaContribuabili_r/Despre_DU_2023.pdf

Also, in April and May, ANAF will organise webinars during which the filing and submission of the Sole Tax Return (212) will be presented for the categories of income for which there is an obligation to submit the form.

INFO – Draft Order on the value of meal tickets

According to a draft Order on the value of meal tickets, the intention is to maintain their maximum value at the level of RON 30/day. The next update will take place starting October 2023.

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INFO – Valuation of monetary items in foreign currency

The March 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 = 4.9491 RON; 1 USD = 4.5463 RON; 1 CHF = 4.9573 RON; 1 GBP = 5.6256 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

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