NEWSLETTER

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Top News:

- New VAT exemptions have been introduced with the right to deduction for the medical field, including for construction, rehabilitation or modernization services of hospitals
- Digital nomads are exempt from tax and social contributions if the individual is present in Romania for a period or several periods that do not exceed 183 days during any 12 consecutive months, which ends during the calendar year in question.
- Receivables against local budgets can be offset with fiscal obligations owed to the state budget
- The mutual compensation of the claims by economic agents with private capital through the platform offered by the Ministry of Economy is optional
- Friday, 12 May 2023 - the next Tax Group online meeting - don't forget to sign up - details at www.taxgroup.ro

Summary

→ New VAT exemptions including right to deduction, within the medical sector (Law 88/2023)
→ Clarification on tax regime for digital nomads (Law 69/2023)
→ Complementing Fiscal Procedure Code by introducing possibility to compensate claims/debts to local budgets with fiscal obligations to State Budget (Law 93/2023)
→ Important amendments brought to mechanism for instalment payment of fiscal obligations (GEO 20/2023)
→ Compliance notification issued by fiscal inspection authority form and notification Procedure (Order 420/2023)
→ News on verifying personal fiscal situation and notifying individuals (Order 417/2023)
→ Amendments brought to Norms to apply regulations in the field of fiscal electronic cash registers – AMEF – (GD 355/2023)
→ Clarification on mutual compensation of claims by economic agents with private capital
→ Other legislative news
→ Closing exchange rates for April 2023
→ Social indicators

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Law 88/2023 to amend and complement Law 227/2015 on the Fiscal Code (Official Gazette 310/2023)

Summary

The Law amends and complements the Fiscal Code regarding new VAT exemptions with right to deduction within the medical sector.

Details

Starting the 11th of June 2023, the following operations will be VAT exempted with right to deduction (previously having applied the reduced VAT rate of 9%):

- delivery of prosthetics and their accessories;
- delivery of orthopaedic products.

Also, the following will be VAT-exempted with right to deduction:

- construction, renovation, modernization services of hospital units within public sector, as well as construction, renovation, modernization services of hospital units provided to non-profit entities/organizations registered in the Register of religious entities/units, if they are intended for hospital units owned and operated by the non-profit entity or those from the public sector;
- deliveries of medical equipment, devices, articles, accessories and protective equipment, sanitary use materials and consumables, usually intended in the field of health care or to be used by disabled persons, essential goods to compensate and overcome disabilities, as well as the adjustment, repair, rental and lease of such goods, carried out for hospital units from the public sector, as well as those carried out for non-profit entities registered in the Register of religious entities/units, if they are intended for hospital units owned and operated by the non-profit entity or those from the public sector.

VAT exemption for delivery of goods/provision of service applies:

- **directly**, by suppliers/providers of goods/services issuing the invoice without VAT if the beneficiary is a hospital unit within the public sector or a central/local public institution/ authority, which assures the unit's financing, according to law;
- **by VAT reimbursement/refund –** VAT related to purchase of goods or services by non-profit entities, according to a procedure to be established by Order of the Minister of Public Finance. VAT refunds returned from the State Budget are exclusively used by non-profit entities to finance the purchase of these goods and/or services.

Law 69/2023 to amend and complement Law 227/2015 of Fiscal Code (Official Gazette 265/2023)

Summary

The Law complements the Fiscal Code on tax regime for digital nomads.

Details

Income from salaries or similar to salaries obtained by non-resident individuals with digital nomad status, defined according to GEO 194/2002 on foreigner regime in Romania, are non-taxable and are not included in the calculation basis for social insurance contribution (CAS) and social health insurance contribution (CASS), if the individual is present in Romania for a period or several periods that do not exceed 183 days during any 12 consecutive months, which ends during the calendar year in question.

The digital nomad is the foreigner who is employed with a labour contract by a company registered outside Romania and who provides services using information and communication technology or who owns a company registered outside Romania, within which he/she provides services using information and communication technology and may carry out the activity of an employee or the activity within the company, remotely, by using information and communication technology.

Law 93/2023 to complement Law 207/2015 on the Fiscal Procedure Code (Official Gazette 320/2023)

Summary

The Law complements provisions of the Fiscal Procedure Code related to settlement of unpaid claims, introducing the possibility to compensate claims to local budgets and fiscal obligations owed to the State Budget.

Details

Taxpayer fiscal claims - certain, liquid, and demandable - towards **local budgets**, set by final court decisions, are settled upon taxpayer request and by offsetting them with its outstanding, current or future fiscal obligations to the **State Budget**, regardless of whether or not the obligations and receivables subject to settlement are administered by the same public authority. The procedure to settle and exchange information between local and central fiscal authori-

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ties is approved by joint order of the Minister of Finance and the Minister of Development, Public Works and Administration, upon ANAF proposal.

Therefore, the taxpayer now has the opportunity to settle by compensation certain, liquid, and demandable claims that it has towards local budgets regardless of whether the claims are administered by the same public authority.

The provisions also apply to settlement of taxpayers' claims towards local budgets, set by court decisions that remain final starting the 21st of April 2023 (the date this Law enters into force).

Emergency Ordinance 20/2023 to amend and complement Law 207/2015 on Fiscal Procedure Code, as well as to amend GO 6/2019 on certain fiscal facilities (Official Gazette 290/2023)

Summary

The Ordinance amends the mechanism of instalment payment of fiscal obligations, through classic instalments, as well as with simplified instalments.

Details

Classic instalments

Payment in instalments is granted for a maximum period of 6 months for debtors that do not own assets to set guarantees/warranties, or their amount is less than 50% compared to the amount of outstanding fiscal obligations that are the subject to this payment facility. Previously, this facility was only granted to those taxpayers that may not constitute any kind of guarantee/warranty.

The delayed payment penalties contained in the fiscal attestation certificate are not postponed for payment and are included in the instalment if the debtor provides guarantees/warranties with a value higher than 50% compared to the amount of outstanding fiscal obligations that are subject to instalment payment facilities, but insufficient compared to the amount provided by art. 193 para. (13)-(15) of the Fiscal Procedure Code. Payment by instalment is granted for a maximum period of five years.

Fiscal/budgetary obligations representing state aid or *de minimis* amounts to be recovered, granted from the state or managed by state sources or resources, as well as fiscal obligations representing excise duties, are excluded from the scope of the instalment payment facility.

The conditions to maintain the validity of instalment payments are complemented with a new condition. It is mandatory to pay - within 30 days from communication date of the decision to approve instalment payments - any excise duties not settled on the respective date, and which are not subject to payment in instalments. These excise duties are excluded from the scope of granting the instalment payment facility.

The exception to set guarantees/warranties that applied to fiscal obligations up to RON 5,000 (individuals), RON 10,000 (associations without legal personality) or RON 20,000 (legal entities) was eliminated.

The number of applications to change the instalment payment decision that may be submitted by the debtor during the validity period is reduced from two to one application. There are exceptions for suspended fiscal obligations and for those established by other authorities whose administration was transferred to ANAF after issuance of the decision.

The debtor will have the opportunity to request, only once during a calendar year or part of a calendar year, continuation of instalment payments when validity has been lost, if the request is approved by ANAF prior to execution of the guarantee or settlement of all fiscal obligations that were subject to payment by instalment.

Simplified instalments

Simplified instalments are no longer granted for:

- fiscal obligations representing excise duties;
- mandatory withheld taxes and contributions;
- taxes related to gambling activities.

The number of applications to change the instalment payment decision that may be submitted by the debtor during the validity period is reduced, from twice to once.

Conditions to maintain instalment payments are complemented, for simplified form, with two other conditions caused by the exclusion of certain fiscal obligations from the scope of instalment payments:

- payment of excise duties and taxes related to gambling activities, not settled on the communication date for decision to pay in instalments but not subject to instalment payment, within 30 days of the respective date;
- payment of mandatory withheld taxes and social contributions, not settled on the communication date for decision to pay in instalments but not subject to instalment payment, within 60 days from the respective date.

The interest due in case of instalment payments, for simplified form, has been increased from 0.01% to 0.02% for each day of delay.

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The possibility to grant both classic and simplified payment by instalment has been eliminated.

Application of new provisions

New provisions apply to applications to pay in instalments, change or maintain payment in instalments submitted after the 6th of April 2023 (date GEO enters into force).

Debtors that have submitted an application to change or to maintain payment in instalments, approved by ANAF, during the period between the 1st of January 2023 and the 6th of April 2023, may submit only one application to change or to maintain the mechanism for the rest of 2023.

If the debtor submits its first application to change or maintain the instalment payment terms after the 6th of April 2023, it may only benefit from this one request for the remaining period of 2023.

In the case of ongoing payments in instalments or those that have lost their validity on the 6th of April 2023, unanswered applications to change or maintain the mechanism are solved according to the new provisions.

Order 420/2023 to approve template and content of Compliance notification issued by the fiscal inspection authority, Procedure to notify and issuance periodicity, as well as to amend Annex no. 1.a to ANAF Presidential Order 3711/2015 on template and content of forms and documents used for the activity of fiscal inspection (Official Gazette 291/2023)

Summary

The Order approves template and content of *Compliance notification issued by the fiscal inspection authority* form, as well as the Procedure to notify and the periodicity of issuing the form. The purpose of the notification is to inform the taxpayer about fiscal risks identified by the fiscal authority and to allow the taxpayer to correct them.

Details

The compliance notification issued by the fiscal inspection authority, based on the risk analysis received from authorized structures within ANAF and/or based on its own analysis, is sent to taxpayers/payers presumed to be selected for fiscal inspection. This notification may be sent monthly, quarterly, bi-annually or annually, based on the fiscal period corresponding to the tax, fee or contribution for which the fiscal risk was identified.

The notification is issued each time new fiscal risks are identified following a risk analysis, for risks that were not previously notified and were not subject to fiscal inspections.

Within 30 days from communication date of the notification, the taxpayers/payers should analyse the fiscal risks mentioned therein, and, if necessary, submit or rectify tax returns. Also, they may send to ANAF information regarding the results of their own analysis, as well as the measures taken, along with supporting documents attesting the manner of compliance or references to documents already held by ANAF – which had been previously submitted to the fiscal authority for compliance. This notification may also mention the situation where, following their own analysis, the taxpayers/payers consider that the fiscal risks identified by the fiscal authority are not confirmed.

After the 30-day deadline, taxpayers/payers, that have not solved the fiscal risks for which they were notified, are subject to a mandatory fiscal inspection or documentary verification.

It is not necessary to issue the notification in the following situations:

- → the fiscal inspection is necessary to settle certain claims made by the taxpayer;
- → the fiscal inspection is expressly provided for in other normative acts;
- → in the case of taxpayers/payers in insolvency proceedings;
- → because of an unexpected inspection, the immediate start of the fiscal inspection is required;
- → for the extension of the fiscal inspection to periods or fiscal claims, other than those included in the initial fiscal inspection notice;
- → in the case of repeat performance/revision of the fiscal inspection as a result of a decision to settle the appeal.

Order 417/2023 to amend and complement ANAF Presidential Order 675/2018 to approve indirect methods to set income and related application procedures (Official Gazette 292/2023)

Summary

The Order amends and complements ANAF Presidential Order 675/2018 to approve indirect methods to set income and procedures to apply such methods. Among others, a template of compliance notification for individuals, as well as its communication and storage, is approved.

The notification has the role to inform the taxpayer regarding fiscal risks identified by the fiscal authority and to allow him/her to solve the issues/correct them.

Details

Verification of the personal fiscal situation consists of examination of rights and obligations of patrimonial nature, cash flow and other elements likely to determine the fiscal status of the individual during the respective period, in

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order to set the income obtained and the applicable fiscal regime. To verify personal fiscal situation of individuals, fiscal authorities carry out the following preliminary activities:

a) risk analysis is carried out by fiscal authorities to determine the risk of non-compliance when declaring taxable income for a group of individuals or for specific cases;

b) compliance notification;

c) selection of persons to be subject to verification of personal fiscal situation.

The following are subject to compliance notification:

→ individuals from the list of individuals proposed for carrying out verification of personal fiscal situation;

→ individuals for whom, throughout the risk analyses, a risk of non-compliance with declaration of taxable income is set and proposed for verification of personal fiscal situation.

Exception from compliance notification:

→ individuals proposed for verification of personal fiscal situation, as a result of implementation of certain programmes/projects to increase fiscal compliance during which they were notified about the risk of non-compliance with declaration of taxable income and the possibility to re-analyse the fiscal situation and, depending on the case, to submit or rectify tax returns;

→ individuals who are the subject of a verification of their personal fiscal situation and for whom it was decided to extend the fiscal periods other than those included in the initial verification notice;

→ individuals who are subject to re-verification of their personal fiscal situation as a result of a decision to settle an appeal;

→ individuals who have been subject to a documentary verification carried out by competent fiscal authorities, in the situation where the measure of triggering a verification of personal fiscal situation is ordered.

The individual who receives a notification has the possibility to reassess his/her fiscal situation and, as the case may be, submit or rectify tax returns within 30 days from the communication date of the notification. Also, during this period, the individual has the opportunity to send information regarding results of the reassessment and, if the tax returns have been submitted or rectified, proof of their submission to the fiscal authority. Prior to expiration of the 30-day period, the central fiscal authority will not take any action to select him/her for verification of personal fiscal situation.

Decision 355/2023 to amend and complement Methodological Norms to apply GEO 28/1999 on obligation of economic operators to use fiscal electronic cash registers, approved by GD 479/2003 (Official Gazette 344/2023)

Summary

The Decision updates Methodological Norms to apply GEO 28/1999 regulating the obligation to use fiscal electronic cash registers (AMEF), imposed by amendment brought to GEO 28/1999 by Law 136/2019.

Details

We mention the following amendments:

→ setting technical and operational characteristics of AMEF integrated in unattended equipment such as vending machines that operate by card payment, as well as bill or coin acceptors, as the case may be, for testing and approval by the National Institute for Research & Development in Informatics - ICI Bucharest;

→ only dedicated cash registers may be installed in unattended equipment such as vending machines, given that specific tests have been carried out for these devices only and have demonstrated that they work correctly after integration into the vending machine from a fiscal point of view;

→ the obligation to apply a holographic *TAXED* label is introduced - to strengthen financial discipline in this area. This should be in a visible place, inside or outside the vending machine;

→ information mentioned on the header of the tax receipt regarding installation location is clarified in the case of AMEF used for ambulatory activities, by road transport operators carrying out regular services of national road transportation, as well as in the cases that AMEF is integrated in unattended equipment such as vending machines, taking into account certain situations that may appear in practice;

→ provisions are introduced regarding procedure to be followed by AMEF users, both in the case of cessation of retail goods delivery activities and the provision of services directly to the population, as well as in the case of transfer of an AMEF from one work point to another;

→ regulation of the *ex officio* cancellation by the fiscal authority of the link between unique identification number and fiscal identification code of the user in the situation where the authority concludes, following its own analyses/findings, that the activity of the economic operator has definitively ceased (e.g., when deregistered from the Trade Register or the death of the individual who was the user). The operation makes it possible to keep accurate

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and up-to-date records;

→ economic operators applying for AMEF distribution authorization cannot be approved in the situation where:

- the manager/economic and/or financial director, or the outsourced company that provides accounting services/ its legal representative, have violations recorded on their fiscal file. The requirement also extends to the accounting service provider;
- their managers, managers of economic operators for which the economic operator requests accreditation for commercialization and/or service, as well as their service technicians have been domestically or internationally convicted for tax evasion or crimes/violations provided by customs laws.

→ new provisions that should be respected/observed by accredited service units (e.g., keeping records of their own technicians) are introduced.

The new provisions apply starting the 24th of April 2023.

Clarifications on mutual compensation of claims of economic agents with private capital

The Chamber of Fiscal Consultants has published a clarification issued by the Ministry of Economy on the obligation to carry out mutual compensation of claims of economic agents with private capital, through the Compensation Information System (SIC) managed by the Training Centre for Industry Personnel (CPPI).

Thus, the Ministry of Economy mentions: "CPPI does not oblige companies to use the compensation system as a form of debt settlement and debt recovery. The entire compensation procedure is voluntary, from setting up access to digitally signing compensation orders. SIC proposes compensation solutions in the user's account, and companies select and either approve or decline a solution. The only concern for companies is to upload invoices they want compensated and see the list of solutions that were identified and proposed. CPPI shows on the official website that, "C.P.P.I. Bucharest branch exclusively provides compensation services for debts and claims of economic agents that fall under GD 773/2019. The categories of compensation services that are not regulated by GD 773/2019 are carried out by other authorized bodies."

The obligation to report overdue invoices, older than 30 days, remains at the companies with full/majority/minority state capital. They may voluntarily opt for one of the proposed compensation solutions. SIC identifies these solutions based on the invoices uploaded by each registered company.

In conclusion, the entire compensation procedure is carried out in a voluntary manner, from setting up access to digitally signing compensation orders.

Order 654/1263/2023 to set nominal indexed value of a meal ticket for the 1st half of 2023 (Official Gazette 272/2023)

The Order maintains the maximum value of RON 30 for the period of April-September 2023.

Decision 302/2023 to amend Methodological Norms to detach employees within transnational provision services on the territory of Romania, approved by GD 337/2017 (Official Gazette 290/2023)

The Decision amends GD 337/2017 on Methodological Norms to detach employees within transnational provision of services on the territory of Romania, to correlate with community law as recommended by the European Commission.

More specifically, the European Commission considers that the obligation set out in art. 11 of Methodological Norms restricts the notion of contact person as described by Directive 96/71/EC and considers that art. 9 para. (1) letter (e) of the Directive leaves it to Member States to impose an obligation on service providers detaching workers to so designate the person with the competent authorities, who may also send and receive documents and/or notifications (when required). Thus, in the opinion of the European Commission, the national provision implies that these obligations may only be fulfilled by a detached worker or the legal representative of the company in Romania. However, such a requirement could prevent the provision of services, as it could oblige the employer to detach a separate worker to fulfil the obligations of the contact person or to detach or establish a legal representative in Romania. Also, the European Commission considers that the obligation to provide information on the employer's representative in the statement may be justified only if such a representative is already appointed in accordance with legislation of the origin Member State, i.e. if the employer does not have to appoint a representative to fulfil this obligation.

Thus, the Decision replaces the phrase "legal representative" with "designated person" in the content of art. 11 and 15 of GD 337/2017. At the same time, provisions of para. (2) of article 11, which require companies that do not have a legal representative on the territory of Romania, to designate one of the employees detached in Romania as a contact person for the authorities, are repealed

Order 1287/2023 to transmit quarterly and annual financial statements, as well as certain monthly centralized financial reports prepared by public institutions starting 2023, and to amend and complement certain orders of the Minister of Public Finance in area of public institutions accounting (Official Gazette 304/2023)

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INFO – Valuation of monetary items in foreign currency

The April 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 = 4,9353 RON; 1 USD = 4,4915 RON; 1 CHF = 5,0133 RON; 1 GBP = 5,5968 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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