NEWSLETTER

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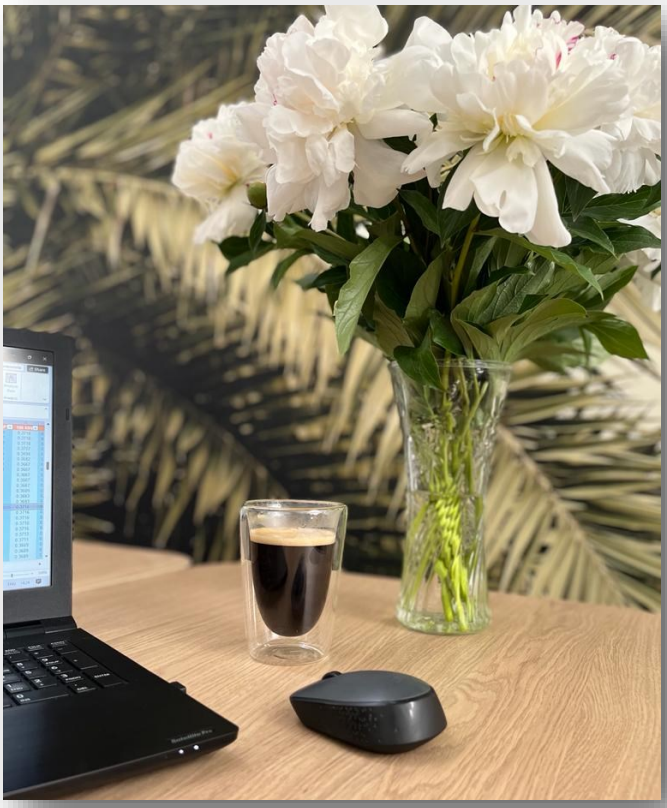

Top News:

- The legal provisions regarding the 5 years storage of financial and accounting documents have been harmonized in the legislation
- Fiscal evasion acts in the field of VAT are severely punished
- The tax exemption procedure for IT programmers has been changed again
- June 25 is the deadline for filing the profit tax return / microenterprise income tax for 2022
- Wednesday, June 14, is the next Tax Group online meeting - Solve your complex tax problems within a community of professionals! - Don't forget to register - details on www.taxgroup.ro

Summary

→ Storage period of 5 years for financial and accounting documents, except documents related to purchase of certain goods that have a lifespan of more than 5 years (Order 1447/2023)

→ New acts of tax evasion in the field of VAT were transposed into domestic law - EU directive 2017/1371 (Law 125/2023)

→ Procedure on fiscal reclassification of amounts granted as delegation allowance, or secondment allowance, including allowance specific to transnational secondment, and the additional benefit being granted under the mobility clause, was published (Order 874/1429/2023)

→ Starting the 1st of October 2023, banks will be obliged to adhere to an ANAF electronic communication mechanism on enforcement documents to avoid multiple execution of garnishments from several bank accounts set by ANAF (Order 626/2023)

→ Initiation of collective labour contract negotiation becomes mandatory when the company reaches 10 employees (GEO 42/2023)

→ Procedure to grant fiscal facilities to IT software developers amended once again (Order 1415/20463/3964/967/2023)

→ Amendments were brought to the solidarity contribution owed by companies carrying

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out activities in the crude petroleum, natural gas, coal and refinery sectors (Law 119/2023)

- Other legislative news
- Closing exchange rates for May 2023
- Social indicators

Order 1447/2023 to amend and complement certain regulations on financial and accounting documents (Official Gazette 453/2023)

Summary

The Order updates provisions of OMPF 2634/2015 on financial and accounting documents regarding their storage period, which was reduced to 5 years.

Details

As a reminder OMPF 2634/2015 regulates template of financial and accounting documents, general and specific rules to prepare and use them, as well as mandatory elements that should be contained on the financial and accounting documents.

Certain amendments were previously brought to Law 82/1991 on accounting regarding the storage period for financial and accounting documents, as follows:

- Law 195/2022 – the storage period for payroll sheets is reduced from 50 to 5 years
- Law 36/2023 – set the 5-year storage period for all financial and accounting documents, as well as data registered in accounting, on digital/technical support/devices, the period being calculated from the 1st of July of the year following the financial year when the documents were prepared.

The current order brings the following complements to OMPF 2634/2015:

- Restoration/reconstitution is mandatory for financial and accounting documents that are lost, stolen or destroyed, that are still in their valid storage period as provided by accounting law.
- Mandatory accounting ledgers/registers and supporting documents based on which financial accounting transactions are recorded are kept/archived by persons provided by art. 1 of accounting law for 5 years starting the 1st of July of the year following the financial year when they were prepared, including payroll sheets.

Similar complements are also brought to OMPF 170/2015 to approve Accounting regulations for single entry bookkeeping, as well as OMPF 3103/2017 to approve Accounting regulations for non-profit organisations.

Supporting documents attesting to the origin of certain goods with a lifespan of more than 5 years are kept for a period equal to their lifespan.

Law 125/2023 to complement Law 241/2005 to prevent and combat tax evasion (Official Gazette 440/2023)

Summary

The Law complements provisions of Law 241/2005 to prevent and combat tax evasion, by transposing into domestic law the provisions of Directive (EU) 2017/1371 on the fight against fraud to the European Union's financial interests by means of criminal law.

Details

The following provisions are added to Law 241/2005:

- Any action or inaction committed within fraudulent schemes of a cross-border nature having the effect to reduce by at least EUR 10,000,000 (the equivalent of the national currency) the resources of the European Union's budget constitutes a crime and is punishable by imprisonment from 7 to 15 years and prohibition of certain rights by:
  - using or presenting false, incorrect or incomplete VAT tax returns and documents;
  - nondisclosure of information on VAT, when that information should be disclosed according to law;
  - presenting correct VAT tax returns to fraudulently mask non-payment or constitution/setting of certain undue rights to VAT reimbursement.
- Attempts to commit the above-mentioned crime is punishable.

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Order 874/1429/2023 to approve procedure to apply provisions of art. IV para. (1) and (2) of Law 72/2022 to cancel certain fiscal obligations and to amend certain normative acts (Official Gazette 395/2023)

Summary

The Order is jointly issued by the Ministry of Finance and the Ministry of Labour and Social Solidarity in the context where Law 72/2022 introduced the provision that fiscal reclassification of the amounts granted as delegation allowance, secondment allowance, including the allowance specific to transnational secondment, and additional benefit granted under the mobility clause, received by employees, may be carried out by the fiscal authorities (ANAF), following inspections performed by the competent bodies of the Labour Inspectorate.

Details

The Order approves the procedure regarding the fiscal reclassification mentioned above, a reclassification which may no longer be performed by ANAF without the Labour Inspectorate bodies ruling on the nature of income granted as delegation/secondment allowance, including the allowance specific to transnational secondment, and additional benefit granted under the mobility clause.

Based on this procedure, the Labour Inspectorate has the obligation to verify the nature of that income either upon the request of public authorities and institutions, as well as any other entities, and *ex officio*.

The Labour Inspectorate concludes reports and, as the case may be, reports of finding and sanctions for contraventions following its inspections. These reports will be sent to ANAF territorial units within 45 working days from the date of their conclusion/issuance.

If the inspection was done *ex officio* by the Labour Inspectorate (ITM), ANAF selects the taxpayers to be verified based on the risk criteria following receipt of the documents sent by the ITM. Reclassifications by ANAF will be made based on art. 11 para. (1) of the Fiscal Code, having its findings on income tax and social contributions based on conclusions of the Labour Inspectorate.

If ANAF, through risk analysis and unannounced inspections, discovers situations with potential reclassification of the allowances mentioned above, then, within 15 working days, it will ask the Labour Inspectorate to carry out verifications of the respective taxpayers to confirm the identified situation. Following receipt of verification documents from ITM, ANAF may start fiscal inspection actions to order, as appropriate, the fiscal reclassification of the amounts granted to employees as delegation/secondment allowance, including the allowance specific to transnational secondment, and additional benefit granted under the mobility clause, taking into account the findings made by the Labour Inspectorate.

Order 626/2023 to amend and complement ANAF Presidential Order 878/2022 to set electronic means to remotely communicate enforcement documents and the procedure to communicate them (Official Gazette 399/2023)

Summary

The Order complements regulations to set electronic means to remotely communicate enforcement documents (information system e-Popriri) and the procedure to communicate them.

Details

The Order aims to improve communication between banks and ANAF in order to avoid the execution of the same garnishment on bank accounts held by the concerned taxpayer at several banks. It essentially aims to prevent situations in which garnishment of the taxpayer is executed several times for the same obligation, and ANAF collects additional amounts that it should later return.

Thus, Order 626/2023 introduces the obligation of banks to transmit, through e-Popriri, details on amounts that may be paid from the accounts held by persons for whom ANAF has issued garnishment acts. This obligation will apply starting the 1st of October 2023.

Joining the mechanism for electronic communication of enforcement documents is optional for banks, and only one bank has joined this mechanism. All other banks do not periodically send information about amounts available for the payment of garnishments set by ANAF.

Emergency Ordinance 42/2023 to amend and complement Law 367/2022 on social dialogue and Law 53/2003 – Labour Code (Official Gazette 459/2023)

Summary

The Ordinance amends Law 367/2022 on social dialogue and Law 53/2003 on the Labour Code. Among these amendments, we would like to emphasize the fact that initiation of collective negotiation becomes mandatory when a company reaches a headcount of 10 employees.

Details

We mention the main amendments brought to the Labour Code:

- the limit from which the obligation of collective negotiation at unit level arises is reduced from 21 employees to 10 employees. In effect, any employer with at least 10 employees is obliged to initiate collective negotiation at unit level.

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→ the material competence of courts of law to judge the initial complaint on all types of individual and collective labour conflicts is specifically established, and the appeal deadlines are regulated.

Order 1415/20463/3964/967/2023 on qualification within the activity of software development (MO 370/2023)

Summary

The Order regulates a new procedure to grant exemption from tax on income obtained from salaries or similar to salaries for those conducting IT software development activities. The new procedure applies starting the 1st of June 2023.

Previous provisions are repealed. We mention that the procedure to grant fiscal facilities for the IT sector was updated on the 1st of January 2023.

Details

What is new?

Facility also applies to employees of local public institutions

Starting the 1st of January 2023, fiscal facilities for the IT sector have also been extended to the public sector, including employees from central public institutions. The new procedure extends applicability to local public institutions as well.

Facility may also apply to detached employees

In addition to the individual labour contract, service/labour report, act of secondment and any special status provided by law, the list includes the act of delegation/detachment, which previously was not included with the application for these facilities.

Extension of covered areas

The article referring to the department to which the employee's job-position should belong is rephrased, with the areas of targeted activities being expanded. Thus, the job-position should be part of a department whose object of activity is represented by at least one of the following fields (highlighted in the employer's organizational chart): technology of information and communication, artificial intelligence and emerging digital technologies, tax administration in electronic format, databases, e-guvernare services and digital transformation.

Previously, there was a stipulation that the job-position should be part of a specialized IT department, highlighted in the employer's organization chart - such as: computing centre, directorate, department, office, division, compartment, or similar.

For more information on the application of facilities within IT field, we recommend you read our article on this subject that may be accessed here: https://nowium.com/facilitati-it-iunie-2023/

Law 119/2023 to approve GEO 186/2022 on certain application measures for Council Regulation (EU) 2022/1854 of 6 October 2022 on an emergency intervention to address high energy prices (Official Gazette 410/2023)

Summary

The Law brings amendments to the solidarity contribution owed by companies carrying out activities in the crude petroleum, natural gas, coal and refinery sectors.

Details

Through GEO 186/2022, a solidarity contribution was introduced that is due from companies that conduct activities in the crude petroleum, natural gas, coal and refinery sectors and obtain over 75% of their turnover from these activities.

The solidarity contribution is 60% and applies to surplus profits for the financial year 2022, respectively 2023, which exceed average taxable profits related to the financial years between 2018-2021 by more than 20%.

Law 119/2023 approves GEO 186/2022 and includes several amendments.

Thus, by exception, taxpayers paying corporate tax and tax on micro-enterprise income, conducting activities in the fields provided by Regulation (EU) 2022/1854 and also carrying out both crude petroleum extraction and refining activities are obliged to pay a solidarity contribution for the years of 2022 and 2023. In this case, the solidarity contribution owed by taxpayers conducting both extraction and refining activities is RON 350 per ton of crude petroleum processed in the refining activity.

Taxpayers that did not obtain production from crude petroleum extraction and refining activities, during the 2018-2021 period do not owe a solidarity contribution.

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Order 1481/1745/2023 to approve Instructions using the form, Statement on non-deductible VAT related to expenses made within operations financed through the Recovery and Resilience Plan within the Recovery and Resilience Mechanism and through national public funds (Official Gazette 452/2023)

Summary

The Order approves Instructions to use the form, Statement on non-deductible VAT related to expenses made within operations financed through the Recovery and Resilience Plan within the Recovery and Resilience Mechanism and through national public funds.

Details

Beneficiaries of funds granted through the National Recovery and Resilience Plan ("PNRR") within the Recovery and Resilience Mechanism prepare and send Statement on non-deductible VAT related to expenses made within operations financed through the Recovery and Resilience Plan within the Recovery and Resilience Mechanism and through national public funds to the reform and/or the investment coordinators/main authorizing officers of credits/loans fully financed from state budget, social insurance budget and budgets of special funds with role of implementation agency for activities carried out on the basis of contracts concluded with service providers or others economic operators.

Transmission of the form is conducted by beneficiaries by deadlines and through means established within the contracts/decisions/funding orders or through specific guidelines. The means of transmission may also be set within the implementation agreements/protocols or through other categories of legal arrangements concluded between reform and/or investment coordinators.

The reform and/or investment coordinators send, quarterly to the taxpayer's competent fiscal authority, the copy of Statement on non-deductible VAT related to expenses made within operations financed through the Recovery and Resilience Plan within the Recovery and Resilience Mechanism and through national public funds submitted by the taxpayer that is registered under the scope of VAT, for certain periods or for the entire period between the issuance date of invoices recorded on this form and submission date of the form.

ANAF, through its territorial units, may arrange verifications/inspections on taxpayers selected based on the risk analysis to verify the correctness of the data declared under own responsibility by the legal representative of the legal entity registered under the scope of VAT.

If the data declared under own responsibility by the legal representative of the VAT payer is not confirmed following fiscal inspections carried out based on a risk analysis, the inspection report containing the verification results will be sent to the reform and/or investment coordinator, in order to make the necessary corrections.

INFO – Granting gifts to employees' minor children on the occasion of Children's Day – the 1st of June

Gifts in money and/or in kind, including gift vouchers, offered for Children's Day (1st of June) by employers to employees for the benefit of their minor children, are non-taxable income and are not included in the basis for calculating mandatory social contributions. This is valid only if the value of gifts does not exceed RON 300 for each minor child.

The amount that exceeds the maximum limit of RON 300 represents taxable income for employees for which 10% income tax, 25% CAS and 10% CASS are due.

For employers paying corporate tax, granting these gifts represents social expenses with limited deductibility, regardless of their value, and they are deducted within the limit of a quota of up to 5% applied to the value of staff salary expense.

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INFO – Valuation of monetary items in foreign currency

The May 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 = 4.9696 RON; 1 USD = 4.6562 RON; 1 CHF = 5.1125 RON; 1 GBP = 5.7565 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	
Minimum wage (gross)	→ 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)	 → 23 lei → 57,5 lei	

(*) If the employers in the field of construction, agriculture or food industry have turnover of at least 80% of the activities defined by law, the following facilities apply for gross salaries between 4,000 lei and 10,000 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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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.

Nowium is a new business concept that defines its values in ambition, creativity, quality, excellence, trust and responsibility. We are a brand new, but of an experienced, strong team, formed over 20 years of activity together.
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Why Nowium?
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