NEWSLETTER

Nowium - Seemless Tax, Finance & Legal

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Issue 8 - August 2023

Top News:

- September 30 - deadline for submitting VAT refund applications from other EU Member States for purchases made in 2022
- VAT rate for lemonade-type beverages served at restaurants, bars and other establishments is the standard rate (applicable from 1 January 2023)
- VAT exemptions for medical equipment and other accessories only apply to operations carried out directly by the hospital unit in the public state network or by the public funding institution
- VAT return (D300) has been updated and the new form applies from August 2023
- Tax Group meetings - don't miss the opportunity to stay informed on the latest tax and accounting news - a continuous professional training programme of Nowium - details on www.taxgroup.ro and taxgroup@taxgroup.ro

Summary

→ EU VAT reimbursement: A simplified guide for companies established in Romania
→ Clarification on VAT rates applied for delivery of lemonade-type beverages and high-quality foods (eco/ mountain/traditional products) - Info
→ Complements to Methodological Norms on VAT exemption for prostheses, accessories, orthopaedic products and services to build, rehabilitate and modernize hospital units within the public state network (GD 653/2023)
→ Updated VAT Tax Return – D300 (Order 1176/2023)
→ Procedure to verify platform operators' reporting obligations, as well as subsequent communication procedure between inspection authorities and platform operators when the reports are incomplete or incorrect (Order 1226/2023)
→ Other legislative news
→ Closing exchange rates for August 2023
→ Social indicators

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EU VAT reimbursement: A simplified guide for companies established in Romania

In the complicated landscape of EU VAT reimbursement, Romanian companies may find themselves navigating a maze of rules, conditions and procedures. To make this journey easier, Nowium has created a comprehensive guide for companies aiming at obtaining VAT reimbursements from other EU Member States.

A taxable entity established in Romania may benefit from VAT reimbursement related to imports and purchases of goods/services from another EU Member State. The right to reimburse VAT for those purchases is determined according to legislation of the Member State in force where the reimbursement should take place.

The reimbursement application is submitted electronically **no later than the 30th of September of the calendar year following the reimbursement period (i.e., by the 30th of September 2023 for purchases made in 2022).**

The reimbursement period may be at 3 calendar months up to a maximum of 1 calendar year, with certain exceptions. The minimum threshold for the requested amount is EUR 50 or EUR 400, depending on the period for which the reimbursement is requested.

As with any process that involves interaction with tax authorities, the assistance of a tax consultant who knows this process in detail and ensures better communication with the tax authorities is recommended. This recommendation is even more meaningful when the communication is with tax authorities of another state, using another language and the amounts involved are significant.

More details may be found in our material here (in Romanian): https://nowium.com/rambursarea-tva-din-ue-2023/

INFO – ANAF clarifications: VAT rates for delivery of lemonade-type beverages and high-quality foods (eco/mountain/traditional products)

As reported in the last edition of the Nowium Newsletter, ANAF replied to certain questions addressed by the Chamber of Fiscal Consultants (CCF) regarding the applicable VAT rate for delivery of coffee, tea or cocoa (served in restaurants), confirming that the standard 19% rate applies, and not the reduced 9% rate.

The CCF also requested clarification related to VAT treatment in the case of eco, mountain or traditional products that fall under NC codes 2202 10 00 or 2202 99, and also the applicable VAT rate for lemonade-type beverages, starting the 1st of January 2023.

The following was communicated in the reply sent by ANAF to CCF:

- ANAF confirms application of a different VAT rate for eco, mountain or traditional products, or 5% if they are delivered as such, and 19% if they are purchased within a restaurant/ catering service and fall under NC codes 2202 10 00 and 2202 99;
- Based on clarifications sent by the Romanian Customs Authority, the classification of deliveries of coffee, tea or cocoa-based beverages (served in restaurants) may also apply to lemonade. Thus, lemonade consumed directly as a drink is classified, depending on its objective characteristics and properties, either under NC code 2202 10 00 or 2202 99, provided that it is not an alcoholic beverage. Therefore, according to this clarification, **for lemonade served at restaurants, bars and other establishments, the standard 19% VAT rate applies as of the 1st of January 2023.**

Decision 653/2023 to amend and complement title VII, *Value added tax* of the Methodological Norms to apply Law 227/2015 of the Fiscal Code, approved by Government Decision 1/2016 (Official Gazette 722/2023)

Summary

Methodological Norms to apply the Fiscal Code are complemented regarding:

- Regulation of application of VAT exemptions (with right of deduction), provided by art. 294 (5) of the Fiscal Code, exemptions introduced by Law 88/2023 for prostheses, accessories, orthopaedic products and building, rehabilitation as well as modernization services of hospital units in the public state network. You may find details about provisions of Law 88/2023 in the April 2023 Nowium Newsletter: https://nowium.com/en/bulletin/newsletter-4-april-2023/
- Harmonization of certain provisions introduced by GO 16/2022 of the Fiscal Code with Methodological Norms:
  - Exemption from application of the reduced 9% VAT rate for non-alcoholic beverages falling under NC codes 2202 10 00 and 2202 99;
  - Adjustment of provisions regarding delivery of homes with a 5% rate as a result of the changed threshold of

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RON 600,000 starting the 1st of January 2023;

- Change to provisions regarding the increase in reduced 5% VAT rate to 9% for hotel accommodation activities and for provision of restaurant and catering services, with the exception of alcoholic and non-alcoholic beverages that fall under NC codes 2202 10 00 and 2202 99.

Details

The main changes brought to application Norms of the Fiscal Code are detailed below:

1. Regulation of application of VAT exemptions provided by art. 294 (5) of the Fiscal Code

a) VAT exemptions for building, rehabilitating and modernizing hospital units within public state network services, as well as building, rehabilitating and modernizing hospital unit services provided to non-profit entities registered in the ANAF Public Register based on provisions of art. 25 para. (4^1), if they are intended for hospital units owned and operated by the non-profit entity or those from the public state network, as the case may be;

NORMS: Justification of the tax exemption provided by art. 294 para. (5) letter a) of the Fiscal Code for services such as building, rehabilitating and modernizing hospital units in the state public network, for which the beneficiary is the hospital unit from the public state network or, as the case may be, the central or local public institution/authority, which ensures its financing, is carried out with documentation on the basis of which these services are provided, such as contracts concluded with the beneficiary.

b) VAT exemptions for supply of medical equipment, devices, articles, accessories and protective equipment, sanitary-use materials and consumables, normally intended to be used in the field of health care or by disabled persons, goods essential to compensate and overcome disabilities, other than those provided by letters c) and d) below, as well as the adaptation, repair, rental and lease of such goods, carried out at hospital units in the public state network, as well as those carried out at non-profit entities registered in the ANAF Public Register based on art. 25 para. (4^1), if they are intended for hospital units owned and operated by the non-profit entity or those from the public state network, as the case may be;

NORMS - The tax exemption provided by art. 294 para. (5) letter b) of the Fiscal Code applies **directly, through VAT-free invoicing** for deliveries of medical equipment, devices, articles, accessories and protective equipment, sanitary use materials and consumables, as well as for the adaptation, repair, rental and lease of such goods. The VAT exemption is justified as follows:

- In the case of deliveries made **to hospital units in the public state network, based on the statement under own responsibility of the legal representative of the hospital unit,** from which results that the respective goods are normally intended for use in the field of health care or by disabled persons as well as goods essential to compensate and overcome disabilities;
- In the case of deliveries **invoiced to a central or local public institution/authority, the tax exemption is justified based on a statement under own responsibility of the legal representative of the applicable central or local public institution/authority,** from which results that the **purchased goods/services are intended for a hospital unit** from the public state network for which the institution/authority provides financing and **a statement under own responsibility of the legal representative of the beneficiary hospital unit in the public state network.**

In the case of the import of goods provided by art. 294 para. (5) letter b) of the Fiscal Code, **the VAT exemption applies to operations carried out directly by the hospital unit in the public state network or by the central or local public institution/authority that ensures its financing, based on the statements mentioned above, depending on the case, which are submitted to the competent customs authority when imported.**

In the case of the intra-community purchase of goods provided by art. 294 para. (5) letter b) of the Fiscal Code, **the VAT exemption applies to operations carried out directly by the hospital unit from the public state network or by the central or local public institution/authority that ensures its financing**, based on the statements mentioned above, depending on the case, which are kept in the beneficiary's records, in order to justify the VAT exemption.

c) VAT exemptions for delivery of prostheses and their accessories, except dental prostheses which are exempted according to art. 292 para. (1) letter b);

NORMS: The tax exemption provided by letter c) applies to **medical prostheses and their accessories**, excluding dental prostheses which are exempt from VAT, under conditions provided by art. 292 para. (1) letter b) of the Fiscal Code

Medical prosthesis is a medical device intended for exclusive personal use that amplifies, restores, or replaces areas of

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soft or hard tissues, as well as functions of the human body. This device may be internal, external or both internal and external. A prosthesis accessory is an item that is specifically intended by the manufacturer to be used with the medical prosthesis.

d) VAT exemptions for the delivery of orthopaedic products.

NORMS: The tax exemption provided by letter d) applies to orthopaedic products. Orthopaedic products are prostheses used to amplify, restore or replace soft or hard tissues, as well as certain functions of the osteoarticular system, orthoses used to change the structural and functional characteristics of the neuromuscular and skeletal system, as well as orthopaedic footwear made on the recommendation of a specialist doctor, orthopaedic walking aids and devices, such as wheelchairs and/or other similar vehicles for disabled persons, parts and/or accessories for wheelchairs or similar vehicles for disabled persons.

Common provisions for exemptions from c) and d) above

The exemptions **apply regardless of who the deliveries are made to**. Provisions regarding statements under own responsibility mentioned above do not apply to exemptions from c) and d), as described below.

In the case of the import of goods referred to in c) and d), the VAT exemption is applied by customs authorities at the time of import, regardless of the beneficiary of the import. In the case of the intra-community purchase of goods provided by c) and d), the VAT exemption applies to any person who makes the intra-community purchase of goods in Romania.

Application of provisions introduced by the Norms

VAT exemption for deliveries of goods and/or provision of services provided by art. 294 para. (5) of the Fiscal Code, **made to the hospital units in the public state network or, as the case may be, to the central or local public institution/authority that ensures its financing**, according to law, **in the period between the date Law 88/2023 enters into force (the 11th of June 2023) and the date this Decision (the 4th of August 2023) enters into force**, applies if the suppliers/providers prove the destination of the goods/services with any proof and means of proof provided by the law, including by, but not limited to, contracts and statements mentioned above.

2. Harmonization of certain provisions introduced by GO 16/2022 in the Fiscal Code with Methodological Norms

Provisions regarding delivery of homes with a 5% VAT rate are adapted as a result of the change in the threshold to RON 600,000 starting the 1st of January 2023.

Delivery of non-alcoholic beverages falling under NC codes 2202 10 00 and 2202 99 is exempted from application of the reduced 9% VAT rate, so that the Methodological Norms be correlated with provisions of the Fiscal Code.

Provisions of the norms regarding the increase of the reduced 5% VAT rate to 9% for hotel accommodation activities and for provision of restaurant and catering services are amended, except for alcoholic and non-alcoholic beverages that fall under NC codes 2202 10 00 and 2202 99.

Order 1176/2023 to amend and complement ANAF Presidential Order 1253/2021 to approve template and content of form 300 - *VAT Tax Return* (Official Gazette 720/2023)

Summary

The Order updates form D300 – *VAT Tax Return*, as well as filling instructions, following Law 88/2023 that introduces operations that are exempted, with right of deduction, in the medical field according to law 88/2023.

Details

Two new lines have been introduced:

Line 14.1 – registering information taken from the sales journal for operations whose chargeability occurs in the current reporting period or in previous fiscal periods, regarding the tax base for:

- building, rehabilitation, modernization services of hospital units in the public state network, as well as building, rehabilitation and modernization services of hospital units provided to non-profit entities registered in the ANAF Public Register, if they are intended for hospital units that are owned and operated by the non-profit entity or those from the public state network, depending on the case;
- delivery of medical equipment, devices, articles, accessories and protective equipment, sanitary use materials and consumables, normally intended for use in the field of health care or by disabled persons, goods essential to compensate and overcome disabilities, as well as the adaptation, repair, rental and lease of such goods, carried out at hospital units in the public state network, as well as those carried out at non-profit entities registered in the ANAF Public Register if they are intended for hospital units owned and operated by the non-profit entity or those

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in the public state network, as the case may be.

Line 14.2 – registering information taken from the sales journal for operations whose chargeability occurs in the reporting period or in previous fiscal periods, regarding the tax base for:

- Delivery of prostheses and their accessories, except dental prostheses exempted from VAT without right of deduction;
- Delivery of orthopaedic products.

The updated form is used starting September 2023 when tax obligations related to the month of August 2023 are declared.

Order 1226/2023 to approve procedure to implement provisions of art. 291^5 para. (8) and (9) of Law 207/2015 on the Fiscal Procedure Code (Official Gazette 743/2023)

Summary

Art. 291[5] of the Fiscal Procedure Code regulates the scope and conditions of mandatory automatic exchange of information reported by platform operators.

The Order is given for the application of provisions of para. (8) and (9) of this Article and concerns the procedure to verify reporting obligations of platform operators, as well as the subsequent communication procedure between inspection authorities and platform operators, when the reported information is incomplete or incorrect.

Details

The Order approves:

- Procedure to implement provisions of art. 291[5] para. (8) of the Fiscal Procedure Code. The purpose of the procedure is to verify the fulfilment of fiscal due diligence and reporting procedures provided by sections II and III of annex no. 5 of the Fiscal Procedure Code;
- Procedure to implement provisions of art. 291[5] para. (9) of the Fiscal Procedure Code, contained in annex no. 2. The purpose of the procedure refers to subsequent communication with platform operators having the obligation to report, regarding complete and correct reporting.

Related to the first procedure, checks regarding compliance with fiscal due diligence and reporting procedures are carried out based on both the information reported by platform operators through the form provided by ANAF, and based on open information sources, in order to identify the platform operators that are in the following situations:

- They have not determined whether a seller qualifies as an excluded seller;
- They did not collect all information about the seller;
- They did not verify information about the seller;
- They have not determined the EU Member State(s) of residence of the seller;
- They did not collect information regarding rented property;
- They did not respect the deadlines and validity of the fiscal due diligence procedure;
- They have entrusted a third-party service provider to carry out the fiscal due diligence procedure;
- They did not respect the calendar and reporting method;
- They did not report the information to ANAF.

The second procedure refers to subsequent communication with platform operators having reporting obligations, and the reported information is incorrect and/or incomplete. In these cases, the process is as follows:

- A notification is sent to the platform operator indicating information found to be incorrect and/or incomplete, as well as the reporting period to which it refers;
- Based on the notification, the platform operator should check and complete/correct the information within 15 days from communication of the notification. Missing the deadline leads to application of contraventions/fines.

Order 1229/2023 to approve Procedure to present tax inspection badge and service order within tax inspection actions (Official Gazette 756/2023)

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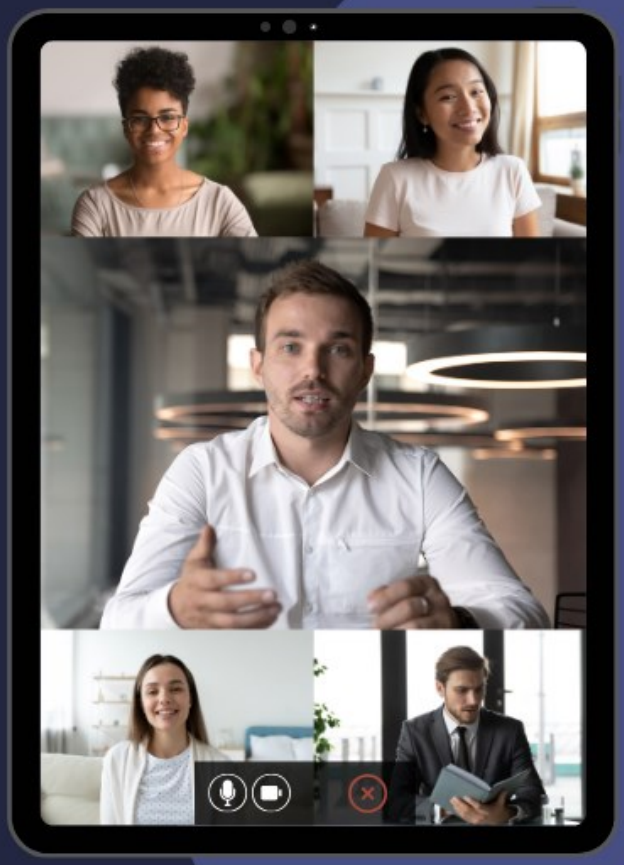
- Important changes of tax legislation



Thursday,
12 October, 10 a.m.

www.taxgroup.ro

Sign-up

INFO – Valuation of monetary items in foreign currency

The August 2023 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 = 4,9412 RON; 1 USD = 4,5441 RON; 1 CHF = 5,1506 RON; 1 GBP = 5,7643 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	→ max. RON 30 → max. RON 35 (1st of August 2023-31st of December 2023) → max. RON 40 (starting the 1st of January 2024)	
Minimum wage (gross)	→ RON 3.000 → RON 4.000 for employees in the construction field	
Per Diem (in the country) For employees of public institutions For private sector employees (* 2.5)	→ RON 23 → RON 57,5	

(*) 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 or 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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