NEWSLETTER

Nowium - Seemless Tax, Finance & Legal

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Top News:

- Micro-enterprises - the criteria regarding related enterprises have been clarified - the new deadline for submitting statements for changing the tax regime is 15 April 2024
- The grace period for e-Invoice has been extended to 31 May 2024
- The method of applying fines for e-Invoice has been clarified - contraventions during the grace period are not penalized
- Trade discounts may also be granted to indirect customers
- Tax Group meetings - don't miss them! Join Tax Group to get the latest tax information and for continuous professional development - details on www.taxgroup.ro and taxgroup@taxgroup.ro

Summary

→ Redefining criteria on linked enterprises and their impact on taxation of micro-enterprise income (GEO 31/2024)
→ Extension of RO e-Factura grace period (GEO 30/2024)
→ New amendments brought to the Fiscal Code on VAT adjustment for commercial discounts and new requirements for payment service providers (Law 33/2024)
→ Consumer Price Index used to update advance payments to annual corporate tax account in 2024 (Order 475/2024)
→ Criteria to apply complementary sanction to temporarily suspend activity for economic activities with goods or money without documents regarding origin of transaction (Order 346/399/704/2024)
→ Reporting information on financing received by NGOs (Order 470/2024)
→ New form 107, Informative statement on beneficiaries of sponsorships/patronage/private/ scholarships (Order 355/2024)
→ News regarding fiscal registration of authorized individuals (PFA) and those practicing liberal professions (Order 371/2024)
→ New value for nursery vouchers (Order 497/660/2024)
→ March 2024 closing exchange rates
→ Social indicators

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Emergency Ordinance 31/2024 to regulate certain fiscal and budgetary measures and to amend and complement certain normative acts (Official Gazette 274/2024)

Summary

The normative act is a new ordinance that brings amendments to multiple normative acts. Most of them are corrections, clarifications and additions, many of them in the area of budgetary expenditures.

In relation to the Fiscal Code, the Ordinance clarifies eligibility criteria to apply the micro-enterprise regime. The changes made at the end of 2023 generated intense debate and uncertainty on how to properly apply the new regime starting 2024. One of the most debated issues was related to the criterion of linked enterprises.

The current Ordinance clarifies these aspects and redefines this criterion, removing the reference to Law 346/2004 on stimulation to establish and develop small and medium enterprises.

Long-awaited from the beginning of March, when it was published in "Decisional Transparency," this Ordinance was published in the Official Gazette on the last working day of March, around 11 p.m.

More details about the changes will be discussed in our Tax Group meeting on the 12th of April. Don't forget to sign up. Details here: https://taxgroup.ro/calendar

Details

Tax on micro-enterprise income

According to new criteria, **a legal entity is linked to another legal entity** if any of the following relationships exists:

- **the Romanian legal entity** that verifies that it holds an ownership interest at **another Romanian legal entity, directly and/or indirectly, of more than 25%** of the value/number of shares or voting rights, or it has **the right to appoint or revoke** the director/the majority of management or supervision board members of that other Romanian legal entity;
- **the Romanian legal entity** that verifies the condition that it is **owned** by **another Romanian legal entity, directly and/or indirectly, with more than 25%** of the value/number of shares or voting rights, or, in the case of the Romanian legal entity that verifies the condition, this other Romanian legal entity has **the right to appoint or revoke** the director/the majority of management or supervision board members;
- **the Romanian legal entity** that verifies the condition that it is linked to another Romanian legal entity if **a person holds, directly and/or indirectly, more than 25%** of the value/number of shares or voting rights or has **the right to appoint or to revoke** the director/the majority of management or supervision board members **both at the first legal entity and at the second legal entity. In the situation where the person holding the shares/voting or appointment/revocation rights is a Romanian legal entity, the Romanian legal entity that verifies the condition also accumulates the income of this legal entity;**
- **the Romanian legal entity** that verifies the condition of ownership, if it has **one or more shareholders/ associates that hold, directly and/or indirectly, more than 25%** of the value/number of shares or voting rights of this Romanian legal entity, **shareholders/associates that also carry out economic activity through an authorized individuals/individual enterprises/family enterprises/other form of organization of an economic activity**, without legal personality, authorized according to law in force. In this situation, the income recorded according to applicable accounting regulations or annual income quota, established/adjusted/reduced of the authorized individual/individual enterprise/family enterprise/other form of organisation of an economic activity without legal personality, authorized according to law in force, are consolidated with enterprises owned by the Romanian legal entity/other linked enterprises.

The limit regarding reported income is verified by taking into account income obtained by the Romanian legal entity, consolidated with the income of linked enterprises, as mentioned above.

In the case of the last criterion above, i.e. associates that own, directly or indirectly, more than 25% of the micro-enterprise, and also carry out activity through an authorized individual/ individual enterprise/family enterprise/other form of organisation of economic activity without legal personality, income of linked enterprises is consolidated with one quarter of the established/adjusted/reduced annual income quota for the current fiscal year if they owe tax based on the annual income quota.

It is specifically stated that the provisions are applied for the verification of the condition regarding the ceiling of EUR 500,000 in income, in order to be qualified as a micro-enterprise during the fiscal year of 2024.

Declaration of mentions

An extension of the deadline to communicate the mentions regarding the change in tax regime was necessary, taking into account that the Ordinance brought these clarifications at the end of the last working day of March, just before the regular deadline. Thus, for 2024, the deadline to communicate the changes in tax regime is extended by the **15th of April 2024**.

Taxpayers that have notified the competent fiscal authorities regarding the change in tax regime by the 29th of March 2024, submit, if necessary, a new declaration of mentions observing the conditions provided by art. 47 of the Fiscal Code, as amended by this Ordinance.

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Value Added Tax

Provisions on operations that are exempted with the right of deduction provided by art. 294 (5) letter a) and b) of the Fiscal Code for:

- building, renovation, modernization services of hospital units;
- supply of medical equipment, devices, articles, accessories and protective equipment, sanitary-use material and consumables, normally intended to be used in the field of health care or by disabled persons, goods essential to compensate or overcome disabilities, as well as the adaptation, repair, rental and lease of such goods.

Exemptions for the above operations were applicable in the case of services/deliveries **to non-profit entities (NGOs)** registered in the Public Register organized by ANAF, **if they are intended for hospital units owned and operated by the NGO or those in the state public network.**

The Ordinance considers the need to ensure a similar VAT treatment for purchases made by companies entirely owned by NGOs with that applicable for purchases made directly by NGOs, to the extent that the purchases made have the same destination.

Thus, the provision of services/delivery of goods to companies entirely owned by NGOs registered in the Public Register organized by ANAF are included in the scope of exemptions.

VAT exemption for goods/services intended for hospital units owned and operated by **companies entirely owned by NGOs,** registered in the Public Register and organized by ANAF, applies if the following conditions are cumulatively met:

- their destination of hospital units is not changed;
- not be sold/transferred/alienated;
- for the entire duration of operation, to provide medical services free of charge or settled through social health insurance system, without charging hotel/other fees.

How does the VAT exemption apply?

The exemption is applied through VAT refunds related to purchases of goods or services made by NGOs or by companies owned by NGOs.

The restitution procedure will be published within 60 days as an order issued by the Ministry of Finance.

The amounts returned from the state budget are used exclusively by NGOs or by companies owned by NGOs to finance the purchase of goods and/or services mentioned above, and which are subject to exemptions.

If the conditions provided by art. 294 para. (5) letter a1) and b1) are no longer met, companies entirely owned by NGOs owe VAT from the date they benefited from the exemption through its refund.

Art. 297 of the Fiscal Code on the right of deduction is also complemented, as the tax related to the purchase of goods/services provided above, made by companies entirely owned by NGOs registered in the Public Register organized by ANAF, is not deductible. This specification was necessary taking into account that the VAT amounts related to these purchases are subject to refund by ANAF.

Emergency Ordinance 30/2024 to amend and complement Law 227/2015 on the Fiscal Code and art. LIX of Law 296/2023 on certain fiscal and budgetary measures to assure long-term financial sustainability of Romania (Official Gazette 272/2024)

Summary

At the last minute, the Ordinance brings changes to regulations on electronic invoicing. Long-awaited throughout the month of March, the Ordinance was published in the Official Gazette after 6 p.m. on the last working day of the month.

The grace period for non-transmission of invoices through the RO e-Factura system is extended through the 31st of May 2024. Two important aspects are clarified regarding the sanctions for the grace period, after its end, and how the sanctions are applied.

Details

In detail, the main changes introduced on RO e-Factura are:

- the **grace period** when no sanctions are applied for not transmitting invoices in the platform is **extended** through the 31st of May 2024 (previously the 31st of March 2024);
- the exception to application of fines is rephrased, clarifying that the non-transmission of invoices through the RO e-Factura platform during the grace period is **not sanctioned even after the grace period has expired.**

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Thus, the rephrased wording is "By exception (...), non-compliance (within the deadline of 5 working days) for invoices that should be transmitted in the national electronic invoice system RO e-Factura by the 31st of May 2024, shall not be sanctioned;"

- the sanctioning method is also rephrased. The sanction is applied for non-compliance with the transmission deadline during the same calendar month, for one or more invoices. Consequently, the penalty does not apply at the invoice level.
- The rephrased text is: "Failure to comply with the provisions...for submission of one or more invoices within to the national RO e-Factura system within the deadline during a calendar month constitutes a contravention and is sanctioned with a fine:
  - from RON 5,000 to RON 10,000 for legal entities classified as large taxpayers
  - from RON 2,500 to RON 5,000 for legal entities classified as medium taxpayers
  - from RON 1,000 to RON 2,500 for other legal entities, as well as for individuals."

Law 33/2024 to amend and complement Law 227/2015 on the Fiscal Code (Official Gazette 179/2024)

Summary

The Law brings several important amendments to the Fiscal Code, among which is the alignment with European law on the possibility to grant commercial discounts to parties other than direct customers. The provisions of Directive (EU) 2020/284 on new requirements for payment service providers are also incorporated into legislation.

Details

Value added tax

Adjustment of VAT base

The Law brings a long-awaited change to the adjustment of the VAT base in the case of price discounts. Thus, price discounts may be granted after delivery/performance, regardless of whether or not they were granted **directly to the customer**. Previously, they could only be granted directly to customers.

In order to reduce VAT collected for each period, in the case of price discounts that are not granted directly to customers, the obligation to issue a centralized document by suppliers/providers is introduced.

The amendment is introduced in order to harmonise domestic law with provisions of art. 90, para. (1) of the VAT Directive and case law of the Court of Justice of the European Union - Case C-717/19 Boehringer Ingelheim.

Other VAT provisions

The deadline to submit statements specific to special VAT regimes is clarified, this being the last calendar day of the month, even if it is a non-working day. This term refers to:

- Special regime for services provided by taxable entities not established in the European Union;
- Special regime for intra-Community distance sales, for domestic deliveries of goods carried out by electronic interfaces that facilitate these deliveries and for services provided by taxable entities established in the European Union, but not in the Member State of consumption;
- Special regime for distance sale of goods imported from third-party territories or countries.

The possibility to appoint an authorized fiscal representative by entities not established and not registered under the scope of VAT in Romania, which import goods to Romania, followed by intra-Community deliveries that are VAT exempted, is eliminated. Thus, in these cases, taxable entities will be obliged to register under the scope of VAT in Romania (either directly or through a fiscal representative, if they are established on the territory of the European Union; or through a fiscal representative being mandatory, if they are established outside the European Union).

New requirements for payment service providers

New requirements are introduced regarding the Reporting in the Central Electronic System of Payment Information (CESOP) given the fact that Directive (EU) 2020/284, aiming to combat VAT fraud in e-commerce, was incorporated into domestic law.

Payment service providers (credit institutions, institutions issuing crypto currency, GIRO, Inc. postal service providers and payment institutions) will have the obligation to keep records of the payees and payments related to the payment services they provide, specifically to report data on cross-border payments and their beneficiaries in CESOP, on a quarterly basis, if the following conditions are met:

- the payer is in the European Union;
- payments are cross-border (i.e. the payer is in an EU Member State and the beneficiary is in another Member State, in a third-party territory or country);
- more than 25 cross-border payments were made to the same payee during a calendar quarter.

Reporting will be quarterly, no later than the end of the month following the calendar quarter. Thus, the reporting

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deadline for the 1st quarter of 2024 will be the 30th of April 2024.

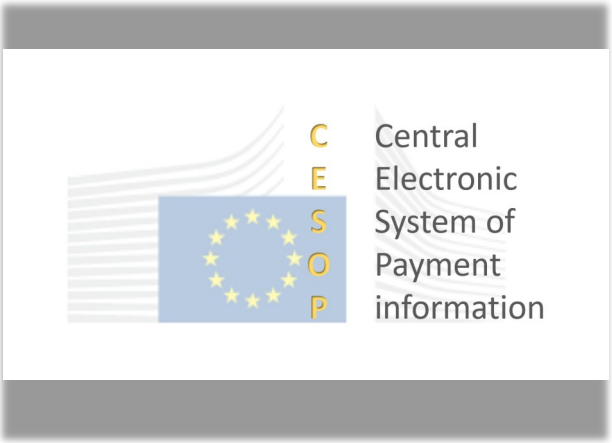
The obligation to keep records related to cross-border payments rests with the payment service provider of the payee, if located in a Member State.

If none of the payee's payment service providers are located in a Member State, the obligation to keep records relating to cross-border payments rests with the payer's payment service provider.

Payment service providers are required to keep records of cross-border payments for a period of three calendar years from the end of the calendar year of the payment date.

Data on cross-border payments and their beneficiaries should be submitted to CESOP using a standard form no later than the end of the month following the calendar quarter to which the information relates.

ANAF will issue a procedure regarding the access to data in CESOP.



Order 475/2024 on Consumer Price Index used to update advance payments to annual corporate tax account in 2024 (Official Gazette 248/2024)

Summary

Consumer price index used to update advance payments to annual corporate tax account is 106% (previously 109.6% in 2023) for fiscal year 2024.

Details

The indicator is used to update corporate tax due in 2024 by those applying advance payment regime.

As a reminder, those who apply the advance payments system and fall under the scope of GEO 153/2020, benefiting from fiscal facilities to stimulate the maintenance/increase of equity, having as submission deadline for the D101 annual corporate tax return for 2023 the 25th of June 2024, determine the advance payment for the 1st quarter of each fiscal year/modified fiscal year at the level of the amount resulting by applying the tax rate to the **accounting profit of the period** for which the advance payment is made, by the 25th of the month following the 1st quarter.

The application of the rule to calculate advance payment for the 1st quarter began with fiscal year 2022, specifically, with the modified fiscal year beginning in 2022, and ends with fiscal year 2026, or with the modified fiscal year beginning in 2026, depending on the case.

Order 346/399/704/2024 to approve criteria to apply complementary sanction of temporarily suspending activity, provided by art. LVI para. (13) of Law 296/2023 on certain fiscal and budgetary measures to assure long-term financial sustainability of Romania (Official Gazette 233/2024)

Summary

The Order approves criteria to apply a complementary sanction to temporarily suspend activity, provided by Law 296/2023, art. LVI, for economic activities with goods or amounts without documents to prove origin of transaction.

Details

Context

Law 296/2023 provides that it is prohibited to carry out economic activities with goods that are not accompanied by documents of origin, regardless of where they are, during transportation, storage or trade.

Thus, if it was not committed as to be considered, according to criminal law, it constitutes a misdemeanour/contravention, a crime, and is sanctioned with a fine from RON 2,000 to RON 15,000 when committed by individuals, or from RON 5,000 to RON 30,000, if carried out by legal entities.

When applying the sanction, the inspector/finding officer is obliged to notify the offender about the sanctions to be applied if the individual or entity, as the case may be, commits another contravention within a period of 12 months from the date of application of the last sanction.

If, within a period of 12 months from the date of application of the last sanction, a new contravention (the same as the last) is committed, a fine from RON 4,000 to RON 30,000 is applied for individuals and from RON 10,000 to RON 60,000 for legal entities.

In addition, a complementary sanction consisting in the temporary suspension of activity for a period of up to 15 days is also applied.

Criteria to suspend activity

Goods without documents of origin

The current Order approves criteria considered in the decision to temporarily suspend activity, this sanction being applied according to the **proportion of goods without documents of origin**, as follows:

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a) 1 day if the goods intended for, used or resulting from the offense represent, quantitatively, up to 5% of total of goods found at the location of transportation, storage and/or trading;
b) 5 days for a share of between 5% and 25%;
c) 10 days for a share of between 25% and 50%;
d) 15 days for a share of more than 50% of total goods found at the place of transportation, storage and/or trading.

Amounts without documents of origin
In the situation where the suspension of the activity is **applied exclusively for amounts assimilated to goods,** which are not accompanied by documents of origin during storage, transportation and/or trade, the following criteria apply:

a) 1 day if the amounts represent, by value, up to 5% of total amounts recorded in accounting records or for which there are supporting documents according to rules in force, at the place of inspection;
b) 5 days if the amounts represent, by value, between 5% and 25% of total amounts recorded in accounting records or for which there are supporting documents according to rules in force, at the place of inspection;
c) 10 days if the amounts represent, by value, between 25% and 50% of total amounts recorded in accounting records or for which there are supporting documents according to rules in force, at the place of inspection;
d) 15 days if the amounts represent, by value, more than 50% of total amounts recorded in accounting records or for which there are supporting documents according to rules in force, at the place of inspection.

Goods and amounts without documents of origin
In the situation where the complementary sanction consisting in the suspension of the offender's activity is applied both for goods that are not accompanied by documents of origin during storage, transportation and/or trade, as well as for amounts assimilated to those goods, the above criteria is assessed differently and the complementary sanction with the longest suspension term is applied.

Order 470/2024 on Reporting information on financing received by NGOs (Official Gazette 239/2024)

Summary

The Order regulates template and content of "Statement on treasury situation", which accompanies annual financial statements of NGOs that received amounts as those provided by art. 34 para. (31) of Accounting Law 82/1991.

Details

Obligation to report financing received by NGOs
NGOs which, during the financial reporting year, received amounts representing subsidies, sponsorships, redirected amounts, according to law, from corporate tax, tax on micro-enterprise income, meaning from income tax owed by individuals, as well as other similar forms of financing, regardless of their cumulative value, have the obligation to prepare a declaration that accompanies annual financial statements and highlights amounts received, used this way, in accordance with provisions of art. 34 para. (3^1) of Accounting Law 82/1991, paragraph introduced by GEO 115/2023.

Statement preparation
The assistance program provided for free by the Ministry of Finance is used to prepare the statement. It generates a PDF file, with an xml file attached, as well as a file with zip extension.

The zip file will contain the first page of the annual financial statements, listed using the assistance program developed by the Ministry of Finance, signed, according to law, as well as all documents required by law, as they are prepared by NGOs. They are all scanned, black and white, readable and with a resolution that allows the PDF file to be attached to the zip file within the 9.5 MB limit.

For financial year 2023, the template of the statement is the one provided in annex 1 to this Order. There is also a simplified form (Annex 2 to the Order) that is used by NGOs that, during the financial year 2023, received sponsorships with a cumulative value of maximum RON 100,000.

Starting financial year 2024, the "Statement on treasury situation" is submitted using the template developed for this purpose.

Signature and submission
The "Statement on treasury situation" is prepared and signed by persons authorized, according to law, to prepare and sign the annual financial statements.

The statement will also be signed by the Director or person who has the obligation to manage the NGO.

The "Statement on treasury situation" is submitted along with the annual financial statements, using the assistance program developed by the Ministry of Finance.

NGOs that, on the date of entry into force of this Order (the 20th of March 2024), have already submitted annual financial statements related to financial year 2023 and received sponsorships during that year, submit the above-mentioned statement within 60 days from the end of the deadline to submit the annual financial statements (i.e. by the 28th of June 2024).

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Order 355/2024 to approve template and content of form 107 Informative statement on beneficiaries of sponsorships/patronage/private scholarships (Official Gazette 205/2024)

Summary

The Order approves a new form 107, Informative statement on beneficiaries of sponsorships/ patronage/private scholarships, which will be used to declare goods/services/sponsorships/ patronage granted to beneficiaries from the 1st of January 2024/the modified fiscal year starting in 2024, by corporate taxpayers, including whether they owe corporate tax at the level of minimum tax on turnover.

Details

Starting 2024, those applying the micro-enterprise regime no longer benefit from fiscal credits for sponsorship or patronage actions, hence they will not submit form 107.

Submission deadline

The informative statement is submitted by the deadline to submit annual corporate tax returns.

In the case of fiscal group in relation to corporate tax, the responsible legal entity has the obligation to submit the informative statement on the beneficiaries of goods/services/ sponsorship/patronage carried out by members of the group.

Manner of submission

The form is completed using the assistance program and is transmitted by electronic means of remote transmission.

Order 371/2024 to amend and complement Annex to ANAF Presidential Order 2021/2021 on competence to manage fiscal obligations owed by individuals who carry out economic activities independently or practice liberal professions (Official Gazette 242/2024)

Summary

The Order complements Order 2021/2021 in relation to fiscal registration of authorized individuals (PFA) or those practicing liberal professions.

Details

The Order makes several complements to fiscal registration, given that individuals who carry out economic activities independently or practice liberal professions, that do not have the obligation to register with the Trade Register, may not apply for fiscal registration by submitting a fiscal registration statement (070) by electronic means of remote transmission. Thus, for these categories of taxpayers, the fiscal registration statement may both be submitted via the Virtual Private Space (SPV) service, if the individual applying for fiscal registration is a user of this service, identified through NPOTP (name, password and single-use authentication code), as well as with a qualified electronic signature, using the ANAF website.

Subsequent to fiscal registration, the individual carrying out economic activities independently or practicing liberal professions will identify himself/herself to the fiscal authority, in order to submit applications or documents to that fiscal authority, by electronic means of remote transmission, only with qualified e-sign certificates, according to art. 80 para. (1) letter a) of the Fiscal Procedure Code.

The Order enters into force 90 days from publication date (i.e. the 19th of June 2024).

Order 497/660/2024 to set value of the indexed monthly amount to be granted as nursery vouchers for the first half of 2024 (Official Gazette 268/2024)

For the period April – September 2024, the amount granted as nursery voucher is RON 640 (previously RON 620).

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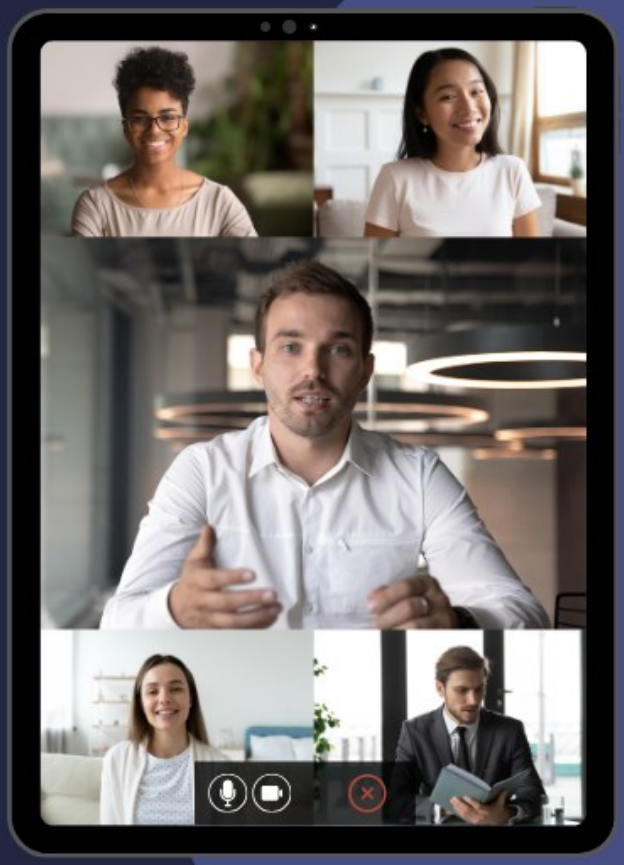
- Tax updates



Monthly online meetings

www.taxgroup.ro

Sign-up

INFO – Valuation of monetary items in foreign currency for March 2024

The March 2024 closing NBR exchange rates to use for valuation of monetary items (cash on hand, receivable, payables) denominated in foreign currency, as well as receivables and payables denominated in RON but pegged to a foreign currency for collection/disbursement are:

1 EUR = 4,9695 RON; 1 USD = 4,6078 RON; 1 CHF = 5,1124 RON; 1 GBP = 5,8126 RON

SOCIAL INDICATORS 2024

2024 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 40 (starting **1st of January 2024**)	
Minimum wage (gross)	→ **RON 3,300** (starting the 1st of October 2023) → **RON 4,582** (starting the 1st of November 2023) for employees in the construction field → **RON 3,436** (starting the 1st of November 2023) for employees in agriculture and food industry sectors	
Per Diem (in the country) For employees of public institutions For private sector employees (* 2.5)	 → RON 23 → RON 57,50	

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

→ for income up to RON 10,000, the default CAS rate is reduced to 21.25% (20.25% starting 01.01.2024), and for income that exceeds the ceiling of RON 10,000, the 25% rate is applied

→ by option, the employee may also choose to contribute to pillar II of pensions, i.e. 25% standard rate will be withheld from total income

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Growing Business Together

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