NEWSLETTER

Nowium - Seemless Tax, Finance & Legal

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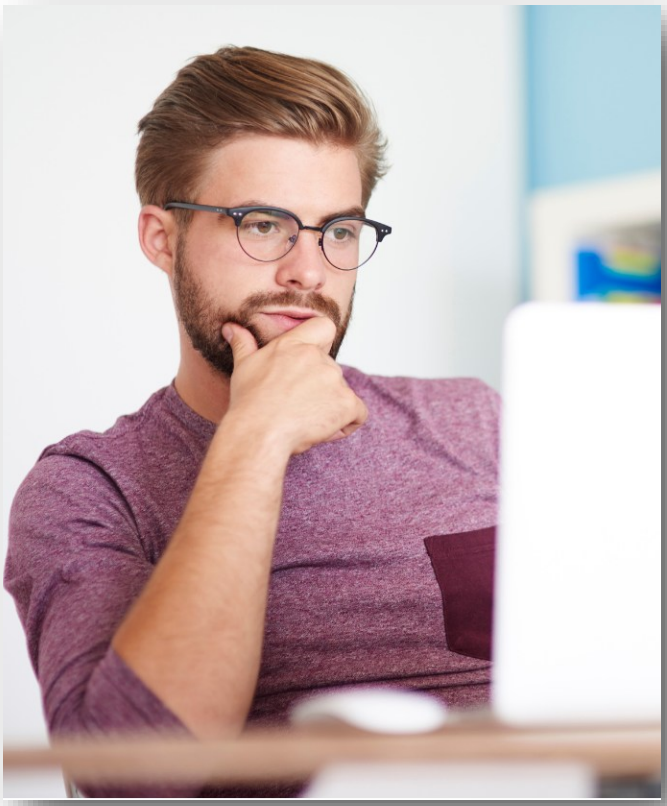

Top News:

- Electricity distribution is included in the calculation of the specific turnover tax by those in the oil and natural gas sectors
- New changes to the lists of large and medium taxpayers from July 1, 2024
- RO e-Transport system is to be expanded starting July 1, 2024
- Local councils can grant additional reductions in building/land tax owed by individuals in the event of blood donation
- 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

→ Electricity distribution activities are no longer excluded from calculation of specific tax on turnover (ICAS) by those operating in the oil and natural gas sectors (Order 643/2024)
→ New changes to lists of large and medium-sized taxpayers starting the 1st of July 2024 (Order 665/2024)
→ Changes to forms in order to submit rectified tax returns following certain compliance notices (Order 779/2024)
→ Procedure applicable to payment service providers regarding Central Electronic System of Payment Information (CESOP) Reporting (Order 825/2024)
→ Amendment to regulations regarding vouchers and holiday vouchers (Law 87/2024)
→ Additional discounts for tax on building/land owned by individuals who donate blood (Law 74/2024)
→ Change to judicial practice regarding the procedure regulate a summons (INFO)
→ Ministry of Finance and ANAF have published a Guide on how to use the national system to monitor RO e-Transport on road transportation of goods (INFO)
→ Deadline to declare and pay special tax on immovable and movable assets of high value related to residential buildings – the 30th of April 2024 (INFO)
→ Other legislative news
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Order 643/2024 to repeal art. 2 of Order of the Minister of Finance 5433/2023 to set legal entities that carry out activities in oil and natural gas sectors according to art. 183 para. (1) of Law 227/2015 on the Fiscal Code (Official Gazette 329/2024)

Summary

The Order repeals the exclusion of electricity distribution activities from calculation of specific tax on turnover (ICAS) owed in addition to corporate tax by legal entities operating in oil and natural gas sectors.

Details

Context

According to fiscal amendments introduced at the end of 2023 by Law 296/2023 and GEO 115/2023, legal entities that carry out activities in the **oil and natural gas sectors, established by order of the Minister of Finance**, that register turnover higher than EUR 50,000,000 in the previous year, owe a **specific tax on turnover (ICAS)** of 0.5% in addition to corporate tax.

The specific tax on turnover is determined as follows:

$$ICAS = 0.5\% \times (VT - V_s - I - A)$$

where the indicators have the following meaning:

- ICAS – specific tax on turnover, determined cumulatively from the beginning of the fiscal year/modified fiscal year through the end of the quarter/calculation year;
- VT – total income, determined cumulatively from the beginning of the fiscal year/modified fiscal year through the end of the quarter/calculation year, depending on the case;
- V_s – income types deducted from total income, determined cumulatively from the beginning of the fiscal year/ modified fiscal year through the end of the quarter/calculation year, depending on the case, representing:
  - non-taxable income provided by art. 23 and 24;
  - income related to inventory costs;
  - income related to costs of services in progress;
  - income from production of tangible and intangible assets;
  - income from subsidies;
  - income obtained from compensation, from insurance/reinsurance companies, for damages caused to inventory or own tangible assets;
  - income representing excise duties that were simultaneously reflected in expense accounts;
- I – value of fixed assets under construction caused by the acquisition/production of assets, registered in accounting records starting the 1st of January 2024/first day of modified fiscal year starting in 2024;
- A – accounting depreciation at historical cost related to assets purchased/produced starting the 1st of January 2024 or the first day of the modified fiscal year that begins in 2024. This indicator does not include depreciation of assets included with indicator I.

Legal entities carrying out activities in oil and natural gas sectors

Order 5433/2023 set these legal entities as legal entities carrying activities, main or secondary, corresponding to the following NACE codes:

- 0610 - Extraction of crude petroleum;
- 0620 - Extraction of natural gas;
- 1920 - Manufacture and processing of refined petroleum products;
- 3522 - Distribution of gaseous fuels through pipelines;
- 3523 - Trade of gaseous fuels through gas pipelines;
- 4671 - Wholesale fuel and related products;
- 4730 - Retail sale of fuel for motor vehicles in fuel station;
- 4950 - Transport via pipeline.

Electricity distribution activities were initially excluded from the scope of the specific tax for those carrying out both the above activities and those of electricity distribution corresponding to NACE codes 3512 - Transmission of electricity, 3513 - Distribution of electricity and 3514 - Trade of electricity and which were carried out by operators regulated/licensed by the National Energy Regulatory Authority (ANRE).

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Order 643/2024 repeals this exception, basically those carrying out activities in oil and natural gas sectors based on the NACE codes listed above, included in the area of specific tax (ICAS) for 2024 as well as electricity distribution activities which are no longer subject to the specific tax.

Order 665/2024 to amend certain ANAF Presidential Orders to organise administration activity of large and medium-sized taxpayers (Official Gazette 344/2024)

Summary

The Order brings new changes to the number of large and medium-sized taxpayers managed by specialized ANAF departments. Thus, starting the 1st of July 2024, the number of large taxpayers will be reduced by 1,000, and that of medium taxpayers may increase by 5,000.

Details

According to changes brought by this Order, starting the 1st of July 2024:

- **large taxpayers** established in descending order according to basic criterion are selected within a maximum number of **2,000 taxpayers** (previously 3,000 taxpayers);
- **medium taxpayers** are those that do not fall in the category of large taxpayers, established in descending order according to basic criterion, selected within a maximum number of **25,000 taxpayers** (previously 20,000 taxpayers).

ANAF should publish the updated lists of large and medium taxpayers during the following period. For the first time, two updates to the list of taxpayers will be performed in the same year.

There are implications for taxpayers changing their classification: competent fiscal authority, transfer of fiscal records from one fiscal authority to another and possible change in the treasury account to which fiscal obligations are paid. Furthermore, the change may also generate SAF-T reporting implications for those that would move from small to medium or large taxpayers.

Order 779/2024 to amend and complement certain normative acts in the field of declaring taxes and social contributions (Official Gazette 374/2024)

Summary

In order to identify tax returns rectified and submitted by taxpayers as a result of a compliance notification sent by fiscal authorities, forms 101, 301, 307, 311, 710 have been amended adding a separate box for the rectification of the data initially declared, following the receipt of a notification.

Details

Order 779/2024 complements GEO 116/2023 regarding certain measures to manage and highlight current income to public budget through the implementation of digitalization projects. Through this ordinance, starting the 1st of January 2024, the operational record of income from digitalization was established at the ANAF level, which aims to highlight/track/monitor additional income on a monthly basis, resulting from the use of inconsistencies and/or inconsistencies identified by the National Strategic Interest IT System (SIISN) and capitalization modules, as well as a result of using risk profiles.

Compliance notices include identified fiscal risks and are sent by control authorities, in order for the taxpayers to reanalyse the fiscal situation and, depending on the case, to submit or correct tax returns.

In order to identify rectified tax returns submitted by taxpayers as a result of a compliance notification sent by fiscal authorities, forms 101, 301, 307, 311, 710 have been changed by adding a separate box for the rectification of data initially declared, following the receipt of a notification.

Also, as a result of a compliance notice sent by fiscal authorities, a taxable entity registered under the scope of VAT may request the correction of material errors reported on the VAT tax return. Thus, Order 3604/2015 is also amended, by approving a new form: *Request to correct material errors on the VAT tax return,* where the taxpayer may mention that the request is made as a result of a compliance notice.

Order 825/2024 to approve procedure to implement provisions of art. 321² para. (7) letter b) of Law 227/2015 on the Fiscal Code and to approve template and content of form (396) - *Informative statement on cross-border payments performed by payment service providers* (Official Gazette 398/2024)

Summary

The Order approves procedure applicable to payment service providers regarding Central Electronic System of Payment Information (CESOP) Reporting and the required forms.

Details

Law 33/2024 introduced new reporting obligations in the Central Electronic System of Payment Information after

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(EU) Directive 2020/284 was transposed into domestic law.

Order 825/2024 approves procedure to implement provisions regulated by art. 321[2] para. (7) letter b) of the Fiscal Code. Template, content and filling instructions of form 396 - *Informative statement on cross-border payments performed by payment service providers* are also approved.

The form applies to cross-border payments made starting the 1st quarter of 2024.

More details on CESOP reporting may be found in Nowium Newsletter 3 2024.

Law 87/2024 to amend and complement Law 165/2018 to grant vouchers, as well as to amend para. (21) of art. 1 of GEO 8/2009 on granting holiday vouchers (Official Gazette 338/2024)

Summary

The Law amends and complements Law 165/2018 to grant vouchers and GEO 8/2009 on holiday vouchers.

Details

Electronic support is defined as any physical device or virtual instrument usable by beneficiaries for transactions with vouchers/for payment operations (including online payments for holiday vouchers).

Employers, together with labour unions or employee representatives, establish, by mutual agreement, the categories of vouchers that are granted to employees, their frequency and value (where applicable), as well as the issuing unit and grant method, meaning by physical device or virtual instrument. Upon employee request, the employer opting to issue vouchers exclusively through a virtual instrument may request, at any time, to have the issuing unit also release the physical device of the voucher, according to the contract concluded with the issuing unit.

Law 74/2024 to amend and complement Law 227/2015 of the Fiscal Code (Official Gazette 290/2024)

Summary

Starting the 6th of April 2024, local councils may grant percentage discounts for tax on building/land for individuals owning a building/land located in Romania and who provide proof of at least three blood donations during a calendar year, made in accordance with Law 282/2005. People with disabilities may also benefit from this percentage discount for tax on building/land.

Details

The percentage of the discount, as well as supporting documents necessary to prove the minimum number of blood donations are stipulated in the content of the local council decision. The exemption or discount related to payment of the tax is applied starting the 1st of January of the year following the year when the person submits supporting documents.

The discount may be combined with the bonus of up to 10% granted for paying the tax owed for the entire year by the subsequent 31st of March and is applied to the difference resulting from the deduction of the bonus from tax due.

INFO - A welcomed new approach of legal practice with regard to regularization procedure of a claim before a court

A request by means of which any physical or legal person demands something from any physical or legal person is named *claim* or *complaint in court*. This procedural document represents the "generator element" of the legal action, as vesting the court to judge the specific request.

In order to check whether the person who submitted the claim, namely the claimant, is serious and perseverant into his legal action, the Civil Procedure Code states that the claim must contain some mandatory elements personal data of both the claimant and the defendant, the object of the claim, the factual and legal grounds of the claim and the means of proof that the claimant intents to use. Apart from these internal conditions, there are also some external ones, that the claimant must also comply with.

Article 200 of the Civil Procedure Code mentions that the court to which a claim is assigned will proceed with the regularization procedure of such claim, in order to attest that the internal and external conditions are complied with. Whether any lacks are identified, the claimant is requested to fix them within a period of time indicated by the court. If such lacks are still not complied with within this term, the claim shall be annulled.

In such case, the legal remedy represents formulating a request for reexamination against the hearing of annulling the claim. Whether such request rejected, the claimant has no other legal way of attack.

Legal practice of the national courts has been quite strict with regard to the sanctions applicable to any lacks of the initial claim – even the ones less formal or serious. Hence, the initial claim would be annulled in case any lack of perfect correspondence between the legal provisions regarding the internal and external conditions of the claim and the specific situation of each case.

Pursuant to several decisions issued by the European Court of Human Rights, the High Court of Cassation and Justice, by means of the Decision no. 42 as of 27 March 2023, stated that "..the court is compelled to – as provided from the perspective of Article 6 of the European Convention of Human Rights within the European Court of Human

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Rights 'Decision as of 31 January 2017, issued in the Case no. 19.074/05 Hassan Tunc and others against Turkey – as applying the procedural norms, avoid an excessive formalism which would breach the equitable character of the procedure, as appreciating that **the right of access to a court is affected in its mere essence when** its regulatory legislation ceases to serve the purposes of legal security and proper administration of justice and **represents an obstacle which prevents the litigant to request that its claim is judged on the merits of the case**.

67. Therefore, the European Contentious Court stated within its case law that indeed the right of access to justice is not an absolute one; there can be restrictions which are implicitly admitted, as, by its own nature, is regulated by the state. But all applied restrictions (in the line of which is mentioned the procedural request of signing the claims) must be according to the Article 6 (1) of the European Convention of Human Rights and thus shall be only whether provided by the law, aim to a legitimate purpose and if there is a reasonable proportionality balance between the used means and the envisaged purpose. As a consequence, **the national courts must sufficiently take into consideration the specific circumstances of each case and not to apply the relevant procedure norms in a way too rigid** (see the decision of inadmissibility of 15 April 2014 in Case no. 66.268/13 Lefter against Romania, decision of 26 January 2006 in Case no. 62.710/00 Lungoci against Romania, decision in case Hassan Tunc and others against Turkey above-mentioned or decision of 5 April 2018 in Case no. 40.160/12 Zubac against Croatia)".

Highlighting the importance of the principle of proportionality between the scope envisaged when writing a legal provision and the need to ensure the right to an equitable trial, the national courts stated that "*The annulment of the claim does not come automatically, as a result of any formal lacks of the initial claim. Being a sanction with a nature of limiting, even temporarily, the access of the claimant to the justice, which is a component of the constitutional and conventional right to an equitable trial (Article 21 (3) of Constitution and Article par. 1 of ECHR) this sanction should be proportional with its justifying grounds. The idea of proportionality between the interference within a fundamental right and the public interest motivation which justifies it should become a normal one, in order to orientate the daily interpretation and applicability of the procedural norms. Therefore,* ***not only formal vice, but a serious one should determine the annulment of the claim****. Beside this aspect, one requires a systematical and teleological interpretation of Article 200 of New Civil Procedure Code. One could not absolute and detach these provisions from the context of the fundamental principles of civil trial and the other provisions of the New Civil Procedure Code. It is absolutely necessary that the court takes into consideration the scope envisaged by the law maker when writing the legal provision, in order to apply the legal text so as to answer to this scope and not in an excessively formalist and rigid manner, which would disregard the real intention of the law maker. Therefore, the court appreciates that* ***the stake of the trial for the parties and the need of a fast solution should have priority to the need of complying fewer formal lacks, which can not affect – at least, not in an imminent, direct manner – a proper trial and the aim of the written initial procedure***".

One could observe that the national courts` legal practice is more aligned to the Europeans` one, pointing the specific analysis of each situation, and not *in abstracto*, apart from the factual reality of each claim.

INFO – Ministry of Finance and ANAF have published a Guide on how to use the national RO e-Transport system to monitor road transportation of goods

ANAF and the Ministry of Finance have published a Guide on how to use the national RO e-Transport system to monitor road transportation of goods. The document may also be accessed on the Ministry of Finance or ANAF Website.

The guide is informative and is addressed to all taxpayers that have the obligation to use the RO e-Transport National System for monitoring road transportation of goods.

The informative material includes, among other things, a series of general information regarding the users of the national RO e-Transport system, as well as conditions to declare and monitor transport of goods with high fiscal risk.

RO e-Transport system expansion projects

The RO e-Transport system for goods with a high fiscal risk might be extended starting July 2024. There is a project under debate in this regard. The project considers the addition of 9 new product categories to the existing list (8 categories), seen as high fiscal risk.

Among the new categories of products that are intended to be monitored are: meat and edible organs/offal (NC codes from 0201 to 0210), fish and crustaceans (NC codes 0302, 0304, 0306), milk, dairy products, eggs, honey and other edible products of animal origin (NC codes 0401 to 0407 and 0409), as well as several types of tobacco and tobacco substitutes, including tobacco waste, extracts or essences (NC code 2401 and NC 2403), mineral fuels and mineral oils (NC codes: 2710 19 66, 2710 19 99, etc.), soap and washing products (NC codes: 3403 19 10 and 3403 19 80), chemical industry products (NC code 3814 00 90), and also apparel (entire chapter NC 6309).

Another project under debate considers various changes to operating procedures of the RO e-Transport system, namely the confirmation of data declared by operators, as well as changes to the process of automatic verification of

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transports.

Do not forget that starting the 15th of December 2023 the national system to monitor road transportation of goods RO e-Transport is in force, regardless of product category. Beginning the 1st of July 2024, the grace period ends in relation to fines for non-compliance with these obligations. More details may be found here: https://nowium.com/en/bulletin/newsletter-12-december-2023/#1.7

INFO - Special tax on immovable and movable assets of high value

Starting the 1st of January 2024, the special tax on immovable and movable assets of high value was introduced.

Who has the obligation to pay special tax on immovable and movable assets of high value?

- individuals who, on the 1st of December of the previous fiscal year, own/jointly own residential buildings located in Romania, if the taxable value of the building exceeds RON 2,500,000;
- individuals and legal entities owning automobiles registered in Romania whose individual purchase value exceeds RON 375,000.

The tax is due for a period of 5 years starting with the fiscal year when the delivery-receipt of the automobile takes place or for the fraction of years remaining until the completion of the 5-year period from this date for those whose delivery-receipt of the automobile took place previously.

How is the special tax on immovable and movable assets of high value calculated?

For properties representing residential buildings, the tax is calculated by applying a 0.3% rate on the difference between the taxable value of the building communicated by the local fiscal authority via tax decision and the ceiling of RON 2,500,000.

For properties representing automobiles, the tax is calculated by applying a 0.3% rate on the difference between the purchase value and the ceiling of RON 375,000.

Special tax on immovable and movable assets of high value is due for the entire fiscal year.

What is the deadline to declare and pay special tax on immovable and movable assets of high value?

For properties representing residential buildings, the deadline to declare and pay is the 30th of April of the current fiscal year, at the central fiscal authority in whose jurisdiction the taxpayer's domicile is located.

For properties representing automobiles, the deadline to declare and pay is the 31st of December of the current fiscal year, at the central fiscal authority in whose jurisdiction the taxpayer's domicile/headquarters is/are located.

Special tax on immovable and movable assets of high value is paid to the state budget and administered by ANAF.

Other legislative news

Order 748/2024 to approve procedure to cancel fiscal obligations that may be subject to facility provided by art. II of the Law 10/2024 to approve GEO 67/2023 on setting a temporary measure to combat excessive increase in prices for certain agricultural and food products, as well as to settle certain fiscal obligations owed by agricultural cooperatives (Official Gazette 347/2024)

Law 10/2024 introduced provisions regarding the cancellation of VAT differences and additional fiscal obligations imposed by fiscal authorities on agricultural cooperatives, representing VAT related to the purchase of agricultural machinery, for which they exercised their right of deduction. More details in Nowium Newsletter 1 2024.

Order 748/2024 was issued in order to approve the following:

- **Procedure on preparation and transmission by the fiscal inspection authority of the list of fiscal obligations that may be subject to cancellation** provided by art. II of Law 10/2024 to approve GEO 67/2023 on setting a temporary measure to combat excessive prices increases for certain agricultural and food products, as well as to settle certain fiscal obligations owed by agricultural cooperatives;
- **Procedure for cancellation of fiscal obligations that may be subject to the facility** provided by art. II of Law 10/2024 to approve GEO 67/2023 on setting a temporary measure to combat excessive increases in price for certain agricultural and food products, as well as to settle certain fiscal obligations owed by agricultural cooperatives, as well as modalities for restitution;

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- template for *Decision to cancel fiscal obligations provided by art. II of Law 10/2024*;
- template for *Request to cancel fiscal obligations provided by art. II of Law 10/2024*;
- template for *Decision to reject request to cancel fiscal obligations provided by art. II of Law 10/2024*.

Order 31/474/723/1264/2024 to approve template, content, means to submit and administer/manage form 112 - *Return on social contributions, income tax and normative list of insured persons* (Official Gazette 376/2024)

The Order updates template and content of form 112 - *Return on social contributions, income tax and normative list of insured persons*, as well as its annexes.

The new form applies starting with declaration of income related to the month of April 2024.

Order 573/180 to complement Classification of positions in Romania – occupational level (six characters), approved by Order of the Minister of Labour, Family and Social Protection and of the President of the National Institute of Statistics 1832/856/2011 (Official Gazette 344/2024)

The Order complements classification of positions in Romania with the following positions:

- Employment and social affairs attaché - 242239
- Main pharmacist - 226205
- Road transportation of goods engineer - 214144
- Road transportation of persons engineer - 214145
- Cost manager for project development - 242122
- Graphic execution programmer for project execution - 432206
- Mechatronic technician (for advanced automated manufacturing) – 311540.

Order 699/2024 to transmit quarterly and annual financial statements, as well as certain centralized monthly financial reports prepared by public institutions starting 2024 and to amend and complement certain orders of the Minister of Public Finance in the field of public institution accounting (Official Gazette 354/2024)

Order 724/2024 to amend and complement Methodological Norms to organise and conduct public institution accounting, charter of accounts for public institutions and instructions, approved by OMPF 1917/2005 (Official Gazette 371/2024)

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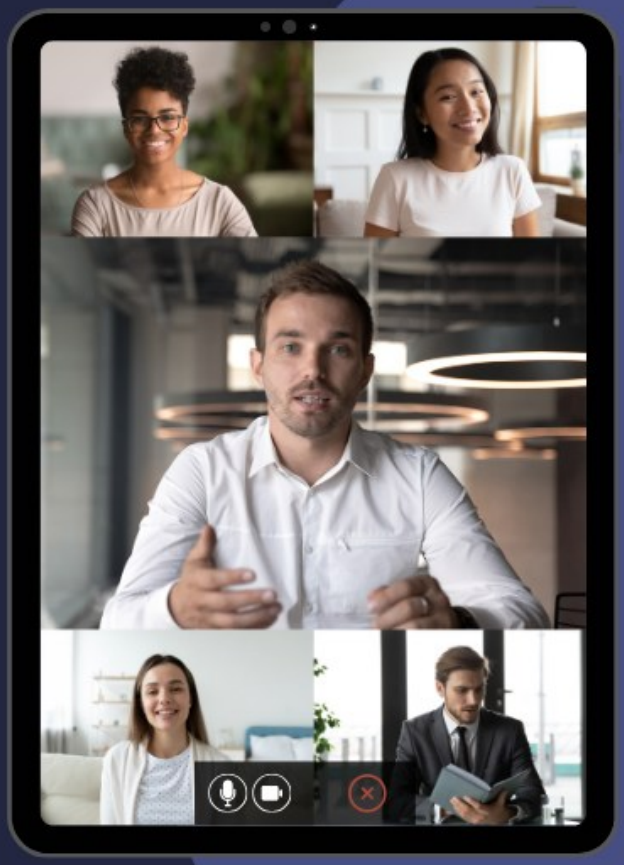
- Tax updates



Monthly online meetings

www.taxgroup.ro

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

The April 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 = 4,9759 RON; 1 USD = 4,6361 RON; 1 CHF = 5,0891 RON; 1 GBP = 5,8194 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	
Per Diem (in the country) For employees of public institutions For private sector employees (* 2.5)	 → RON 23 → RON 57,50	

(*) If 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 monthly salaries of between RON 4,000 and RON 10,000:

→ for monthly income up to RON 10,000, the default CAS rate is reduced to 21.25% (20.25% starting 1st of January 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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