NEWSLETTER

Nowium - Seemless Tax, Finance & Legal

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Top News:

- The application of sanctions for certain obligations related to equipping commercial machines with Electronic Fiscal Cash Registers (AMEF) has been suspended.
- Insurance companies will report to ANAF the resident individuals who have contracted life insurance and other financial products.
- The EU's list of non-cooperative tax jurisdictions has been updated.
- Remember that starting 1st of January 2025, SAFT reporting will extend to all taxpayer categories. We invite you to attend the Tax Group webinar on 19th of November, where we will discuss major tax updates and ongoing projects – details at www.taxgroup.ro and taxgroup@taxgroup.ro.

Summary

→ Suspension of sanctions on obligation to equip commercial machines with cash registers and amendments brought to the Fiscal Procedure Code (GO 125/2024)
→ Postponement of property taxation reform (GO 124/2024)
→ Change in VAT reimbursement procedure for NGOs (Order 6251/2024)
→ Delivery of food for bees will be subject to 9% VAT rate (Law 254/2024)
→ Update of the EU list of non-cooperative jurisdictions for tax purposes (INFO)
→ Ex officio establishment of CAS and CASS for individuals who obtained extra-salary income in 2023 and did not fulfil their declaration and payment obligations (Order 6515/2024)
→ Amendments on excise duties (GO 123/2024)
→ Updated form 112 (Orders 1630/6330/1587/3121/2024)
→ Changing tax authorities' competences related to non-resident taxpayers (Order 6551/2024)
→ Updated forms for fiscal registration and fiscal vector/status (Order 6580/2024)

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- New form 709 addresses payment service providers that do not have fiscal residency in Romania (Order 6508/2024)
- Other legislative news
- October 2024 closing exchange rates
- Social indicators

Emergency Ordinance 125/2024 to complement art. 2 and to suspend application of certain provisions of GEO 28/1999 on obligation of economic operators to use fiscal electronic cash registers, as well as to complement Law 207/2015 on the Fiscal Procedure Code (Official Gazette 1073/2024)

Summary

The Ordinance amends regulations on fiscal electronic cash registers (AMEF) and the Fiscal Procedure Code.

Related to AMEF, the application of sanctions for certain obligations related to provision of commercial machines with AMEF is suspended.

The Fiscal Procedure Code is complemented with a new obligation for entities regulated by the ASF (Financial Supervisory Authority). Entities should report to the central fiscal authority the list of resident individuals who have contracted life insurance products and other financial products, the types of insurance and other financial products, as well as related information, as the case may be.

Details

AMEF legislation (GO 28/1999)

A new exception is added regarding the obligation to equip **electric vehicle charging services** whose value is only collected through commercial machines using credit/debit cards and/or e-wallet applications with AMEF cash registers.

The ordinance also introduces the suspension of sanctions for certain contraventions provided by GEO 28/1999, as follows:

- By the 1st of September 2025, the application of fines for issuing fiscal receipt without:
  - beneficiary identification code (upon beneficiary request)
  - receipt's identification number
  - QR code-type information: issuance date and time, fiscal receipt identification number, as well as the fiscal series of the fiscal electronic cash registers;
- Non-compliance with obligation of economic operators to use AMEF for delivering goods or providing services through vending machines that operate based on card payments, as well as banknote or coin acceptors, depending on the case, is suspended through the 30th of December 2024, if operators have concluded contracts to purchase AMEF from authorized distributors, for all used vending machines, with a deadline for delivery and installation by the 31st of December 2024 (including the inspection date carried out by the fiscal authority). For economic operators carrying out other activities for which the law stipulates mandatory use of AMEF, the suspension applies exclusively to the activity of delivering goods or providing services through vending machines that operate based on card payments, as well as banknote or coin acceptors.

Complementing the Fiscal Procedure Code

A new reporting obligation is added for entities within the scope of authorisation, regulation, supervision and control of the Financial Supervisory Authority (ASF). These entities have the obligation to report to the central fiscal authority, every six months, the list of resident individuals who have contracted life insurance products and other financial products, the type of insurance and other financial products, as well as related information.

The type of life insurance and other financial products subject to reporting obligation, information content, form used, and reporting deadlines are approved by joint order of the president of ANAF and ASF.

Failure to comply with the reporting obligation, as well as reporting incorrect or incomplete information, is punishable with a fine from RON 20,000 to RON 100,000.

The provisions enter into force from the 1st of January 2025.

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Emergency Ordinance 124/2024 on extension of certain deadlines and consolidation of administrative capacity in the field of property taxation (Official Gazette 1069/2024)

The Ordinance postpones the application of new rules regarding local taxes and fees introduced by GO 16/2022 to the 1st of January 2026, i.e., tax unification between individuals and legal entities and setting a tax base according to information provided by the National Union of Public Notaries in Romania. Thus, by the end of 2025, the current system of calculating local taxes and fees will continue to be applied.

They were originally intended to apply starting the 1st of January 2023 but were postponed by Law 370/2022.

More details about provisions of GO 16/2022 in our Newsletter July 2022:
https://nowium.com/en/bulletin/newsletter-3-july-2022/

The Ordinance provides that a new structure will be established within the Ministry of Finance, which will be responsible for implementing property tax reform.

Order 6251/2024 to amend and complement Order of the Minister of Finance 3044/2024 to approve Procedure for VAT reimbursement related to purchases of goods or services made by NGOs and by companies entirely owned by NGOs to which tax exemption applies according to art. 294 para. (5) letter a)-b^1) of Law 227/2015 on the Fiscal Code (Official Gazette 1018/2024)

Summary

The Order brings amendments and complements to the VAT reimbursement procedure related to purchases of goods or services exempted from VAT according to law, carried out by Non-governmental Organizations (NGOs) and by companies entirely owned by NGOs.

Details

***Affidavit* of the legal representative of the company entirely owned by the NGO/NGOs**

The content of the affidavit has been changed; it should certify cumulative fulfilment of the following conditions:

- destination of hospital units will not be changed;
- both the hospital units and social shares owned by NGOs within these companies will not be able to be sold to private entities for 20 years from application of the VAT exemption. Profit obtained will be reinvested for the development of hospital units or for provision of free medical services to disadvantaged people, according to established internal procedures.

List of documents required to fulfil conditions for granting reimbursement

The list of documents that should be attached to the VAT reimbursement application is complemented with the following:

- documents proving that purchases of services made by companies entirely owned by the NGO/NGOs, for which the VAT reimbursement is requested, refer to ongoing investment-type work at the hospital units, starting the 30th of June 2024;
- documents certifying that purchases of goods made prior to the 30th of June 2024 by companies entirely owned by the NGO/NGOs were made during the period when work took place.

Deadline to submit VAT reimbursement application

Additions and clarifications are made on the deadline to submit the VAT reimbursement application and/or the related documentation for purchases of goods/services made prior to the 30th of June 2024 by companies entirely owned by the NGO/NGOs.

If the NGOs and related 100%-owned companies have not submitted the VAT reimbursement application and/or related documentation within the deadline (within 90 days after the 11th of October 2024), the general director of the Regional General Directorate of Public Finances may approve the VAT reimbursement, if the application is submitted within 5 years from the 1st of January of the year following that when the right to tax reimbursement was registered.

In this regard, the competent fiscal authority will prepare a report signed by its director. The report should state the conclusion that, although the reimbursement applications were submitted late compared to the legal deadline, the conditions to grant VAT reimbursement are met. This report will be forwarded to the general director of the Regional General Directorate of Public Finances, in order to approve the VAT reimbursement.

Law 254/2024 to amend art. 291 para. (2) of Law 227/2015 on the Fiscal Code (Official Gazette 1006/2024)

Starting the 1st of January 2025, the reduced VAT rate of 9% will be applied to **delivery of food for bees.** Currently, the standard rate of 19% applies.

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INFO – Update of the EU list of non-cooperative jurisdictions for tax purposes

On the 8th of October 2024, the Council of the European Union updated the EU list of non-cooperative jurisdictions for tax purposes (Annex I and Annex II).

The main changes are the exclusion of Antigua and Barbuda from Annex I, now being included in Annex II.

As a reminder, the EU list of non-cooperative jurisdictions for tax purposes is a component of the fight against tax evasion at the EU level. This list includes countries that have not met their commitments to comply with the criteria of good fiscal governance and countries that have refused to do so.

Annex I includes countries that do not cooperate with the EU or have not fully met their commitments. These are: Anguilla, Fiji, Guam, Palau, Panama, Russia, Samoa, American Samoa, Trinidad and Tobago, US Virgin Islands and Vanuatu.

Annex II includes countries that do not yet comply with all international tax standards but have committed to implementing reforms. These are: Antigua and Barbuda, Belize, British Virgin Islands, Costa Rica, Curaçao, Eswatini, Seychelles, Turkey and Vietnam.

For Romania, the EU list of non-cooperative jurisdictions for tax purposes has an impact in terms of reporting obligations according to DAC6 rules and country-by-country reporting (CbCR).

Also, the Fiscal Code provides for the non-deductibility of expenses related to transactions carried out with a person/entity located in a state which, on the registration date of expenses, is included in Annex I of the EU List of non-cooperative jurisdictions for tax purposes, published in the Official Journal of the European Union. This refers to transactions made starting the 1st of January 2021 and only in the situation where the expenses are made as a result of transactions that do not have an economic purpose.

The EU Council updates the list twice a year. The next revision of the list is scheduled for February 2025.

Order 6515/2024 to amend and complement ANAF Presidential Order 2547/2019 to approve Procedure to set ex officio social insurance contribution and social health insurance contribution owed by individuals, as well as template and content of certain forms (Official Gazette 1049 /2024)

Summary

The Order updates Procedure to set ex officio social insurance contribution (CAS) and social health insurance contribution (CASS) owed by individuals, in accordance with the current legislative provisions, so that the Procedure is applicable to individuals who did not fulfil the obligation to declare these contributions in **2023**.

Details

The Procedure to set ex officio contributions implies the fiscal authority identifies individual taxpayers who have not fulfilled their fiscal obligations and to notify them of their obligation to submit the Sole Tax Return. Notified individual have 15 days from communication date to submit the Sole Tax Return. Also, the taxpayer has a 10-day period from notification date to express a point of view as part of the hearing procedure.

If the taxpayer does not comply with the required submission of the tax return, the fiscal authority sets ex officio social insurance contributions owed by the individual, issues a taxation decision and, as the case may be, applies enforcement measures.

The deadline to declare and pay social insurance contributions (CAS and CASS) for individuals related to non-salary income or from abroad in 2023 was the 25th of May 2024.

As a reminder, the main categories of income that are taken into account when setting social contributions for income other than salary income are:

→ **Social insurance contribution (CAS)**

- income obtained from independent activities, with the exception of income obtained by prosumers;
- income obtained from intellectual property rights, when no salary income is obtained;
- unemployment indemnity;
- medical leave indemnities.

The CAS base is given by summing the above incomes and reaching ceilings of 12/24 minimum national gross salaries in force on the deadline to submit the estimated Sole Tax Return (2023).

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→ **Social health insurance contribution (CASS)**

- income obtained from independent activities;
- income obtained from rental activities;
- income obtained from intellectual property rights, when no salary income is earned;
- income obtained from investments (including dividends, interest);
- income obtained from agriculture, forestry and fish farming activities;
- income obtained from other sources.

The CASS base is given by summing up the above incomes and reaching ceilings of 6, 12 or 24 minimum national gross salaries in force on the deadline to submit the estimated Sole Tax Return (2023).

Emergency Ordinance 123/2024 to amend and complement Title VIII - *Excise duties and other special taxes* of Law 227/2015 on the Fiscal Code (Official Gazette 1070/2024)

Summary

The Ordinance brings amendments to the field of harmonized and non-harmonized excise duties.

Details

Excise taxes on beer

A gradual increase in excise duties on beer is introduced, for 2025-2026 period, as well as the exemption from provisions to update their excise duty level according to an increase in consumer prices (taking into account the calendar of gradual increase in excise duty, level calculated based on the annual average inflation rate for 2024).

Thus, for 2025, the excise duty on beer was set at RON 4.82/hl/1 degree Plato, and for 2026, RON 5.06/hl/1 degree Plato. For this year, the excise duty for beer was set at RON 4.62/hl/1 degree Plato.

The excise duty on beer produced by independent producers whose annual production does not exceed 200,000 hl will be RON 2.65/hl/1 degree Plato in 2025, and RON 2.78/hl/1 degree Plato in 2026.

Advance payment obligation for tax warehouses

The advance payment obligation is introduced for warehouses that have been authorized as of the 1st of January 2024, during the first 36 months of validity of the authorization. Thus, the delivery of excisable products from fiscal warehouses such as: sparkling wines, fermented beverages (except still fermented beverages, cider and mead), other than beer and wine, intermediate beverages, ethyl alcohol, gasoline, diesel, kerosene and liquified petroleum gas (LPG) may be carried out only after the document proving payment to the state budget is issued.

For warehouses authorized starting the 1st of January 2024, the date from which the 36-month term runs is the date GEO 123/2024 enters into force, i.e. the 24th of October 2024.

Order 1630/6330/1587/3121/2024 to approve template, content, means to submit and manage form 112 - *Return on social contributions, income tax and normative list of insured persons* (Official Gazette 1006/ 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 changes being related to the entry into force of the new law on public pensions (Law 360/ 2023).

The new form is used starting with the declaration of income related to September 2024.

Order 6551/2024 to amend and complement ANAF Presidential Order 3775/2015 to approve certain special competences of the central fiscal authority (Official Gazette 1076/2024)

Summary

The Order brings changes to legislation on the competences of fiscal authorities for non-resident taxpayers, especially for those without a permanent establishment in Romania. The new regulations clarify administrative responsibilities and adapt fiscal rules to recent legislative changes.

Details

The main changes are:

1. **Exclusion of non-resident taxpayers carrying out activity in the field of gambling from Fiscal Administration jurisdiction**: non-resident taxpayers, legal entities without permanent establishment in Roma-

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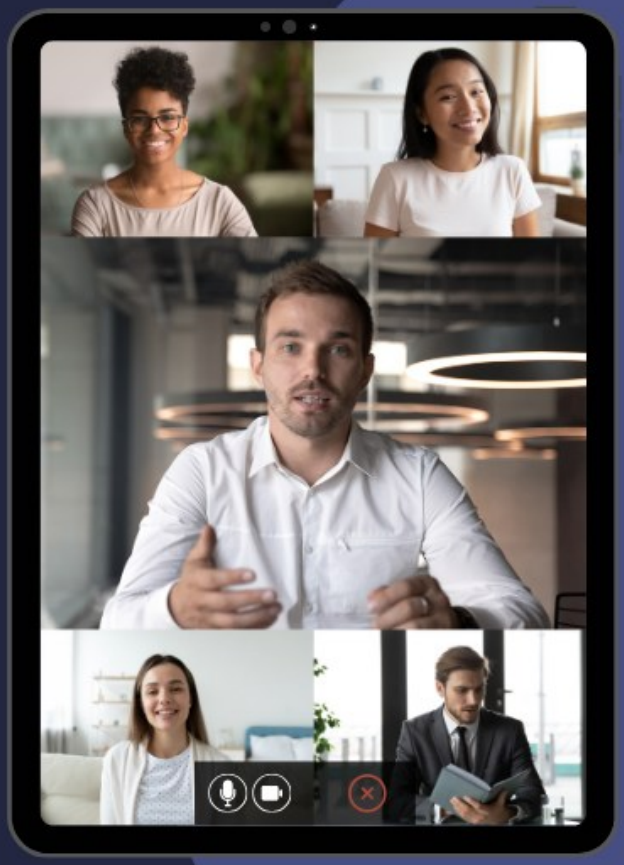
- Important changes of tax legislation



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nia and organising gambling activity are no longer administered by the Fiscal Administration for non-residents. The change appears given the change in legislation by GEO 82/2023, which establishes that gambling licenses are only granted to companies registered in Romania or in other EU member states, EEA or Switzerland, with permanent establishment in Romania;

2. **Establishing competence to administer representative offices**: the administrative competence rests with the Fiscal Administration for non-resident taxpayers and the county administrations only for representative offices of foreign economic organizations that do not have a permanent establishment in Romania. Non-resident taxpayers with a permanent establishment are administered by the related territorial fiscal authority;
3. **Extending competences for indirect tax refunds for diplomatic personnel/staff**: the new provisions include competences to solve requests for indirect tax refunds submitted by diplomatic personnel from diplomatic missions, consular posts and international organizations accredited in Romania, according to the Fiscal Code;
4. **Clarifications on competences for income payers**: for taxpayers only obtaining income subject to taxation at source, without being large or medium taxpayers, the competence rests with the fiscal authority related to the fiscal domicile of the income payer. For individuals carrying out independent activities or free professions, the administrative competence is established by ANAF Order 2021/2021;
5. **Updates on fiscal agents/representative**: amendments bring additional clarifications for non-resident taxpayers that do not have a permanent establishment but are obliged to appoint a fiscal agent in Romania. In these cases, the competence rests with the fiscal authority where the fiscal representative or fiscal curator has its fiscal domicile.

Order 6580/2024 to amend and complement ANAF Presidential Order 1699/2021 to approve tax registration forms of taxpayers and types of fiscal obligations that form the fiscal vector (Official Gazette 1079/2024)

Summary

Amendments are brought to ANAF Order 1699/2021 which regulates tax registration forms of taxpayers and types of fiscal obligations that form the fiscal vector. Amendments were necessary to update tax registration forms given the recent legislative changes.

Details

1. **Licensing and authorization for gambling**: according to GEO 77/2009 to organise and operate gambling activities, amended by GEO 82/2023, licenses and authorizations for organising and operating gambling activities are granted only to companies registered in Romania or in other member states of the EU, EEA, or the Swiss Confederation, but which have a permanent establishment in Romania. Therefore, form 015 for non-resident taxpayers has been updated by removing the sections related to gambling taxes for those without a permanent establishment in the country.
2. **Taxation on Hotel, Restaurant and Catering (HoReCa) activities**: starting the 1st of January 2024, GEO 115/2023 repealed the provisions according to which Romanian legal entities carrying out activities in the HoReCa field (with certain NACE codes) and paying specific tax by the 31st of December 2022 could opt for the payment of tax on microenterprise income starting the 1st of January 2023. Thus, forms 010 and 700 were updated in order to align with the above-mentioned provisions.
3. **Fiscal registration for non-resident taxpayers**: for non-resident taxpayers carrying out activity in Romania through one or more permanent establishments, it is possible to submit by electronic means the request for tax registration of a representative office, as well as the declaration of the list of permanent establishments and representative offices fiscally registered, which meet the conditions provided by law to be payers of salaries and income similar to salaries and/or the list of permanent establishments and representative offices, which do not meet the conditions provided by law to be payers of salaries and incomes similar to salaries.

   Form 700 now includes new sections to declare permanent establishments and representative offices.
4. **Declaration obligations for taxpayers under dissolution through liquidation**: corporate taxpayers are obliged to declare tax due/advance payments on a quarterly basis, by submitting form 100 - *Statement on payment obligations to the state budget*. The declaration of the final corporate tax related to a fiscal year is made by submitting a Form 101 - *Corporate Income Tax Return.*

The aforementioned provisions do not apply to taxpayers that are dissolved through liquidation, for the period between the first day of the fiscal year following that when the liquidation procedure was opened and the date the liquidation procedure is closed. This period is considered to be one fiscal year for which the taxpayers mentioned have the obligation to submit one annual corporate tax return (form 101) and pay the related corporate tax by the date for submitting liquidation financial statements to the competent fiscal authority.

Since, according to law, for taxpayer dissolution through liquidation for the period between the first day of the fiscal year following that when the liquidation procedure was opened and the date of closing the liquidation procedure, this period is considered to be one fiscal year, forms 010 and 700 were updated with a new line, *Dissolution through liquidation* where the start and end dates of the dissolution though liquidation procedure are declared.

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Order 6508/2024 to approve template and content of form 709 - *Registration application for payment service providers that do not have fiscal residency in Romania and to whom the obligation provided by art. 321^2 para. (2) of Law 227/2015 on the Fiscal Code applies* (Official Gazette 1045/2024)

Summary

The Order approves template, filing instructions and content of form 709 - *Registration application for payment service providers that do not have fiscal residency in Romania and to whom the obligation provided by art. 321^2 para. (2) of Law 227/2015 on the Fiscal Code applies*.

Details

Form 709 is used by payment service providers that have the obligation to keep records of the payees and payments related to cross-border payment services they provide, but do not have fiscal residence in Romania. They must register in order to make these records available.

After submitting form 709, the payment service provider to whom the obligation provided by art. 321^2 para. (2) of the Fiscal Code applies, but not having fiscal residence in Romania, has a record number assigned to it by ANAF. This number is only used to meet the obligation to make the records provided for in art. 321^2 para. (7) letter b) of the Fiscal Code available. **The record number is not a fiscal identification code**.

ANAF communicates the record number to the payment service provider at the e-mail address mentioned in form 709.

Form 709 is completed and submitted exclusively by electronic means of remote transmission, according to the law, **within a maximum of 15 days from the end of the first quarter for which the obligation to provide the records** provided for in art. 321^2 para. (7) letter b) of the Fiscal Code occurs.

Form 709 is also submitted when the payment service provider to whom the obligation provided by the Fiscal Code applies and does not have fiscal residence in Romania no longer provides payment services.

Other legislative news

Decision 1283/2024 to amend annex to GD 1352/2010 on approval of structure of Classification of positions in Romania – level base group, in accordance with International Standard Occupation Classifications - ISCO 08 (Official Gazette 1051/2024)

The Decision renames certain base groups within the Classification of positions in Romania, as follows:

- Minor group "234 Teachers in primary and preschool education" is renamed "234 Teachers in primary education and early education;"
- Base group "2342 Educators in preschool education" is renamed "2342 Teachers and educators for early education;"
- Minor group "531 Childcare personnel including support services for preschool, primary and secondary education" is renamed "531 Childcare personnel including support services for early education, primary and secondary education;"
- Base group "5312 Support services personnel for preschool, primary and secondary education" is renamed "5312 Support services personnel for early education, primary and secondary education;"
- Base group "5414 Guards" is renamed "5414 Private security services workers."

Within 60 days from the publication date of this decision, the Ministry of Labor and Social Solidarity and the National Institute of Statistics will accordingly amend the Classification of positions in Romania - occupation level (six characters).

Order 6207/2024 to amend and complement certain orders of the Minister of Public Finance in the field of public institution accounting (Official Gazette 991/2024)

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

The October 2024 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 = 4.9745 RON; 1 USD = 4.5757 RON; 1 CHF = 5.2850 RON; 1 GBP = 5.9436 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 40.04	
Minimum wage (gross)	→ **RON 3,700** (starting the 1st of July 2024) → **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 23.00 → 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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