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Intro

Tax Policy Outlook in 2016. The Challenges Before Us

Tax Policy Outlook in 2016. The Challenges Before Us

The most awaited event of the year has been the enactment of a New Tax Code which became effective on 1 January 2016. Along with the New Tax Procedure Code, it has been the most exhaustive process of reforming taxation laws since 2003.

Reforming the Tax Code targeted two approaches: making the Tax Code much easy to use (i.e. form related measure) and making important changes so as bring the tax provisions up-to-date with the current challenges brought by the ever-changing business environment (i.e. substance related measure). In this respect, one should note that the first noticeable change within the New Tax Code was aimed at simplifying the document.

More specifically, the business environment now benefits of a New Tax Code which contains renumbered articles making the legal provisions more understandable and easy to refer to. However, although important, the form related measure mentioned above would not have been sufficient to consider the Tax Code reform any close to being complete.

Taxpayers and, in general, the entire business environment looked forward for the overhaul of the Tax Code. The same can be sustained as regards the Tax Procedure Code whose purpose for the reform has been, *inter alia*, to streamline tax administration, to clarify various procedural situations causing disputes between tax authorities and taxpayers and, last but not least, to strike a better balance between the rights and the obligations of the two parties to the legal taxation relationship (i.e., the taxpayer and the tax authority).

At first sight, many of the new provisions bring added balance and predictability for the taxpayer. However, it remains to be seen to what extent these provisions will effectively benefit the taxpayers or, on the contrary, have a reverse effect when put in practice.

The April 2016 issue of our Just in Case magazine offers a brief analysis on some of the most debated concepts or changes brought by the New Tax Code and Tax Procedure Code, focusing on the interpretation of their purpose and effects.

The current issue also addresses the new provisions on VAT that essentially concern changes in applicable rates, an extended scope of reverse taxation and various technical changes in the VAT chapters.

In 2016, greater attention must be paid to VAT overhaul.

Also, reverse taxation in the construction and IT industries has moved the spotlight on VAT registration by option – currently a rather bureaucratic and non-transparent procedure. At the same time, the New Tax Code implemented technical measures in >

favour of the taxpayers, for the recognition of rights and to streamline procedures.

Elsewhere, a case study brought to you by the firm's Dispute Resolution team talks about correlating legal regulations: while apparently simple, this operation leads to many controversies in practice, as was the case with a dispute concerning the tax on buildings.

Finally, the current issue of the Just in Case provides a glimpse of past and future tax related events hosted by our team of tax consultants and lawyers. Please feel free to join us in discussing the fiscal challenges laying before us in what seems to be a very busy year.

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Case by Case

What Did the Author Mean? A Case Study

What Did the Author Mean? A Case Study

Correlating legal regulations: while apparently simple, this operation leads to many controversies in practice.

And this is despite the fact that there are specific criteria apt to extract from the legal background the correct image (interpretation) of a legal text (in the context of other regulations).

The grammatical, logical, teleological (in consideration of the purpose of the law) and systematic (reading the legal texts in conjunction so as to be harmonised) interpretation – these are all methods made available by the general theory of law, based on which we may decipher the meaning of a legal text. In other words, the relevant science (general theory) functions like the anatomy of law, explaining how to determine the scope of application of different regulations and how they work together.

Furthermore, legislation itself provides various benchmarks likely to contribute to an accurate orientation in the maze of the legal field. For instance, Law No. 24/2000 on legislative technical regulations provides indications on how we should react when confronted with two conflicting rules, one included in a legislative act of greater power, and a lower-ranking one (set by a lower-ranking legislative act, issued for the application of the higher-ranking legislative act).

In consideration of Law No. 24/2000, the solution seems handy (although it is not, on the contrary, the interpretation of the law is a daunting enterprise, as hereinafter described). Therefore, the tension between two different-ranking regulations should be solved on the spot, by imposing the higher-ranking one (as the lower-ranking one, issued in application of the higher-ranking one, cannot derogate from it).

The case study described below started in September 2013 and proves that the implementation of the above is a challenging mission. But the case is eloquent, given the frequency of similar cases. I led a team of dispute resolution lawyers also including Oana Cornescu, Managing Associate.

Background

Pursuant to certain provisions of the Fiscal Code, the client (i.e. a business entity) was under the obligation to reassess the buildings periodically (every three years), under pain of an increased tax on buildings, ranging from 10% to 40%, depending on the periods of time between reassessment operations. >

On the contrary, if the company met its legal obligation, it had the benefit of a decreased tax (ranging from 0.25% to 1.50%).

The bone of contention proved to be the following detail stemming from the issue, set out above, of correlating legal regulations.

The Fiscal Code referred to the obligation to reassess *each building* (not all same-group buildings) in order to qualify for the decreased tax.

> "The Fiscal authorities decided that the reduced tax is to be awarded only to the taxpayer that reassessed all the same-group buildings concomitently every 3 years

However, the same Fiscal Code also provided that the decreased tax was awarded to the taxpayer that made the assessment *in accordance with the accounting regulations.* Said accounting regulations consist in an Order of the Minister of Public Finances by which a taxpayer is under an obligation to reassess *all same-group buildings concomitantly*.

By correlating the two regulations (the Fiscal Code and the Order of the Minister of Public Finances), the fiscal authorities decided that the reduced tax is to be awarded only to the taxpayer that reassessed *all the same-group buildings* concomitantly every 3 years.

While the company concerned had taken into consideration the assessment every 3 years for *each building in the group* (so it did not reassess all the buildings in the group concomitantly), the fiscal authority levied different tax amounts (resulting from the application of the increased tax) and accessories.

The company challenged this decision in court.

The Courts' View

The courts analysed the two conflicting interpretations.

The fiscal authorities' interpretation, a rigid one, based on an arithmetical correlation between the Fiscal Code and the Order of the Minister of Public Finances.

According to the tax authority, it is true that the Fiscal Code determines a reduced tax if the reassessment is made every 3 years.

But the reassessment is for all the buildings of the group, as per the Order of the Minister of Public Finances (which requires reassessing all the buildings in the group concomitantly).

The taxpayer's interpretation, based on the following main arguments:

- **The grammatical interpretation**: The Fiscal Code takes into consideration the case of *one building* (not assessed every 3 years). Based on the use of the singular (as opposed to the plural: *all same-group buildings*), the company relied on the fact that the reduced tax would be applied if each building was reassessed every 3 years;
- **The logical interpretation**: The Fiscal Code refers to the application of the decreased tax for the *building that was assessed* (every 3 years). Per *a contrario* (as a logical argument), the increased percentage shall be applied if *a building was not subject to the aforementioned regulations (not for failure to reassess the entire group concomitantly)*. Furthermore, the provisions of the Fiscal Code prevail over any other regulations, in the tax field (in which case it is not acceptable to apply an increased tax, pursuant to the regulation enshrined by the Order of the Minister of Public Finances);
- **The teleological interpretation:** The Order of the Minister of Public Finances (issued under Accounting Law No. 81/1990) concerns *accounting discipline* and cannot affect the field of principles of determining the taxable value and the levy percentages for the purposes of the building tax;
- **The systematic interpretation**: It is true that the relevant Fiscal Code refers to the accounting regulations (Order of the Minister of Public Finances). But that reference concerns the assessment methods accepted for the purpose of determining the taxable value of a reassessed building. Therefore, in order to determine the reassessed value of a building (which is the equivalent of the taxable value for the purposes of the building tax) there must be, as a rule, an assessment report drawn up by an assessment professional. According to this interpretation rule, the point of interest (within the scope regulated by the Order of the Minister of Public Finances) from the perspective of the Fiscal Code (in order for a taxpayer to be awarded the reduced tax percentage) is for the assessment to be made by a qualified professional;
- **Arguments related to the technical aspects of legislation**, such as: (i) it is not possible to>

supplement the provisions of the Fiscal Code by means of a lower-ranking legislative act, since this would not be consistent with Law No. 24/2000 on legislative technical regulations, (ii) the Order of the Minister of Public Finances is not an instrument issued for the enforcement of any provisions of the Fiscal Code, but a technical one, governing the accounting field, which is independent from duties and taxes.

The Final Solution

In the end, the final solution rendered by the courts in April 2016 was to validate the taxpayer's line of reasoning.

Therefore, it was ruled that the applicable tax would be determined on the basis of the Fiscal Code, in consideration of the scope of application of the Fiscal Code, the Order of the Minister of Public Finances and the legislative technical regulations.

Thus limiting the legal framework, as well as the grounds for the ruling applicable in the case at bar, it was determined that the Fiscal Code provides for a reduced tax if the taxpayer fulfilled its obligation to reassess each building every 3 years.

In addition to the sometimes considerable financial stake of the disputes concerning the tax on buildings, not making the reassessment every 3 years for the entire group concomitantly raises a subtle issue concerning the correlation of regulations.

A thorough analysis of the parties' position reveals the burdensome verifications that need to be conducted in order to answer an apparently simple question: what does the law actually say?

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Focus

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The Tax Procedure Code Under Scrutiny

The overhauled Tax Procedure Code provides for new rules on the interpretation of taxation laws.

How to Interpret the Law?

Among the various amendments introduced by the New Tax Procedure Code is the much-debated principle *in dubio contra fiscum* (in case of doubt as to the taxation rule, the latter is to be interpreted in favour of the taxpayer).

Thus, when a taxation rule must be applied in a particular case and there are doubts as to how to apply the law, the tax authority must first clarify the rule by reference to the purpose of the law, as expressed in various public documents (such as substantiation notes, statements of reasons, parliamentary debates, etc.). The next step is to use a systematic interpretation (from the perspective of the entire law). If this measure also fails to clarify the meaning of the rule, the latter will be interpreted only in the sense in which it can have effects.

If, after due consideration of all the aforementioned principles of interpretation, the meaning of the law is still not clear, the principle that the provisions of taxation laws are interpreted in favour of the taxpayer shall be applied as a last resort only.

Certainly, the introduction of such principle is commendable. Its primary target is to protect the taxpayer against the abusive application of the law by the tax authority and to decrease the number of conflicts between tax authorities and taxpayers.

However, I deem that in the near future this principle is illusory for the taxpayer. Where the law is not clear, tax authorities may easily avail themselves of the other interpretation criteria. The principle *in dubio contra fiscum* is provided only as a last viable resort for the interpretation of taxation laws, which significantly reduces its degree of applicability.

Resuming the Tax Inspection

The regulations also refer to the procedure of resuming the tax inspection, which is distinct from the re-verification procedure, made as a result of a decision to cancel an administrative act of taxation. The tax inspection must be resumed in strict compliance with the taxation periods and the considerations in the decision on the basis of which the administrative act was cancelled, exactly as such are stipulated in the decision.

Also, given the circumstances of the cancellation, it has also been provided that the tax inspection may be resumed and a new administrative act of taxation may be issued even if the statute of limitations expired for the relevant taxation periods and tax liabilities.

Thus, clarifications are brought in relation to the possibility of resuming control even for the periods for which the statute of limitations expired during the administrative proceedings for ordering re-verification. Thus, under the new law consultants and taxpayers can no longer claim the expiry of the statute of limitations for certain periods in re-verification proceedings. The positive side of this legislative clarification is that it limits the powers of control authorities, during the period when they resume the control, to a strict compliance with the considerations in the decisions cancelling the initial administrative acts. It also eliminates the uncertainties as to the scope and powers of a new verification of the same period and the possible abusive extensions of the purpose and control methods when control is resumed.>

On the other hand, we anticipate that, under the New Code, the already constant practice of the complaint resolution authorities to order the resuming of control will continue or even grow.

Non-Declaration Penalty

Probably one of the most controversial amendments in the Tax Procedure Code is the new penalty for non-declaration.

Thus, the system provides for the application of a non-declaration penalty of 0.08% per day, as of the next day after the due date until the effective payment date inclusively, out of the principal tax liabilities not declared by the taxpayer and determined by the tax authorities by taxation decisions. A late-payment penalty (reduced, as of 1 January 2016, to 0.02% per day of delay) must also be paid along with the non-declaration penalty.

Except for tax evasion cases, the non-declaration penalty cannot exceed the value of the principal debt. If no tax return is submitted, only the non-declaration penalty is applied, not the administrative penalty for non-submission of a tax return. Notably, the non-declaration penalty is applicable only to the tax liabilities arising after 1 January 2016.

The professed intention of the legislature has been to encourage a correct conduct of the taxpayer and implicitly to avoid the deliberate declaration of lower tax debts.

It must be said from the outset that, in our opinion, the definition and the mechanism for the enforcement of this penalty, as provided by the New Code, will not yield the results stipulated in the substantiation note, i.e. to reduce the non-declaration of tax liabilities. In fact, this provision will actually result in a disguised increase of late-payment interests and penalties (an aggregate effect of 0.10% per day compared to the current level of 0.05%) which will also be "indiscriminately" enforced against all good-faith taxpayers that, in a particular case, do not apply the tax treatment considered to be correct by the control authorities. Certainly, there will be countless such situations, from the subjectivity in assessing service costs as deductible to the classification of specific complex situations, such as transfers of business or (in)dependence relationships. All these, while, at some taxation levels, the control authorities do not have consistent practices yet and secondary laws do not provide for any clarifications. This is practically a return to the "glorious" age of disproportionate late-payment interest rates (by calculating the annual aggregate impact at 36.5% per year).

> "Probably one of the most controversial amendments in the Tax Procedure Code is the new penalty for non-declaration

I also find that the facility of reducing the non-declaration penalty by 75% if the principal tax liabilities determined by the tax authorities are paid, compensated or rescheduled is incorrect in principle. Such legal limitation (to these cases of payment, compensation or reschedule) practically means to force the discharge of the liability to the detriment of its suspension. Suspension is currently used by taxpayers either by submission of a letter of bank guarantee or if it is requested to and ordered by the court. The purpose of this mechanism is precisely to protect taxpayer's available money and activity from the time when the taxpayer files the complaint against the taxation decision until the tax authorities or the courts decide on the merits. However, under the new law, even if a taxpayer strongly believes that its tax position is grounded and that it will prevail in its legal proceedings, it must take a serious management decision, i.e. whether to suspend payment at the risk of being applied a disproportionate penalty or to make the payment, thus endangering its immediate resources.

The New Code distinctly stipulates that the non-declaration penalty is not applicable when the tax differences established by the tax authorities result from the application of the law by taxpayers in accordance with the interpretation given by a tax authority in rules, guidelines, circular letters or opinions sent to the taxpayer.

We deem that this provision is equivocal and may create confusion and inequity.

Are we to understand that this law may be interpreted, for instance, on the basis of an opinion issued by the Ministry of Finance, but ANAF, further to the control, may have a different opinion?

Could this be a generalized acknowledgment of the fact that the recommendations made by various public authorities are not binding on and can be irrelevant for other public authorities (i.e., the control authority)? In such case, I wonder if the aforementioned principles for the interpretation of the law are to be applied.>

Interim Measures

One of the changes which was much-debated and sought by the business environment was the regulation of the way in which tax authorities apply interim measures. Taxpayers deem that the widespread use of such measures during anti-fraud controls is often unjustified or even abusive.

Both under the former and under the New Code, the control authorities may take such measures even before completion of tax control (and the issuance of a debt instrument), when they deem that the controlled entity may circumvent the payment of its liabilities or hide its assets.

However, the New Code adds that the interim measures automatically cease if the debt instrument was not issued and submitted within 6 months as of the date when such measures were ordered.

Although this legal provision is clearly positive for the taxpayers, we deem that the 6-month term is too long to effectively protect taxpayer's business until a potential debt instrument is issued. In our opinion, a 3-month term for the completion of the tax control and the issuance of a taxation decision would have been truly beneficial for the taxpayers, allowing them to continue their activities and generate taxable income, which in fact should be the main purpose of the tax authorities.

Service of and Appeal Against the Taxation Decision

Another change brought by the New Tax Procedure Code is that, if the complaint submitted to the competent tax authority is not solved within 6 months, the taxpayer complaining against the decision is entitled to file legal action for the annulment of the decision directly before the competent court of administrative claims.

This is another legal provision in favour of the taxpayer, which can now defend its rights on the merits sooner, given the current significant delays in solving taxpayers' complaints by the tax authorities.

However, if the complaint is not solved by the competent tax authority within the legal term of 45 days, the taxpayer has no other option but to wait for the lapse of the 6 months when it may approach directly the competent court of administrative claims. Therefore, this 6-month may be interpreted as a tacit extension of the 45-day legal term when the tax authorities must solve the complaint. As long as the taxpayer has no other option of appeal on the merits and the competent tax authority is not sanctioned in any way for exceeding the legal term within which it must solve the complaint, the introduction of this provision practically works in the tax authorities' advantage by tacit extension of such term.

It remains to be seen if, in time, the legislature reduces this period so that this new legal provision would have the intended effects, i.e. to speed up the solving of taxpayers' complaints and to unblock an overloaded system.

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VAT Changes in the 2016 New Tax Code

The new provisions on VAT, effective as at 1 January 2016, essentially concern changes in applicable rates, an extended scope of reverse taxation and various technical changes in the VAT chapters.

Intro

Before describing the new provisions, we would like to quote a stipulation at Article 11 of the New Tax Code, as approved by Law 227/2016, which will certainly be often invoked in practice: *"[i]n what concerns the value-added tax (...), tax authorities and other national authorities must take into account the case law of the Court of Justice of the European Union".*

Certainly, the EU case law on VAT has been directly applicable ever since 2007 (even in the absence of this stipulation), but the clarification brought at Article 11 could prove to be useful when tax inspectors fail to consider taxpayers' arguments taken from the EU case law.

Another stipulation at Article 11 of the New Tax Code concerns the abuse of rights: *"If an abuse of rights is found, the transactions involved in such abusive practices must be redefined so as to restore the situation which would have prevailed in the absence of the abusive transactions. Competent tax authorities are entitled to annul the deducted VAT in relation to each transaction whenever it is found that the right of deduction was abusively exercised."*

However, determining the situations when an abuse of rights occurred is not left entirely at the absolute discretion of tax inspection authorities. According to the same article, to claim that an abuse of rights does exist, the following two conditions must be cumulatively met:

- Despite formal compliance with the requirements in the legal provisions, the relevant transactions result in securing tax advantages which would be contrary to the purpose of those legal provisions;
- It must be objectively proved that the essential purpose of those operations has been to derive a tax advantage.

Notably, the compliance with the formal requirements under the legal provisions can no longer be claimed, on a large scale, as an essential argument for the exercise of the right to deduct VAT. If we refer strictly to Article 299 of the New Tax Code, in order to be able to deduct VAT it is enough to hold an accurate invoice. However, if a tax advantage is derived and it is proved that this is the essential purpose of the operations, the control teams may however decide>

to annul the VAT deduction right. In fact, these principles were stated by the Court of Justice of the European Union and have been applicable so far, but Article 11 brings more clarity both for taxpayers and for tax inspection teams. Also, the VAT section in the New Tax Code no longer contains provisions on the individual and joint liability for the payment of the tax. According to these provisions, the beneficiary is held liable individually and jointly for the payment of the tax, if the person having the obligation to pay the tax is the supplier or the provider, if it does not hold an accurate invoice and cannot prove that it paid the tax. At any rate, this joint liability exists implicitly (or indirectly) if the beneficiary's right of deduction is annulled; therefore, attention must be paid to the fulfilment of formal and substance requirements and to the avoidance of situations in which an abuse of rights could be claimed.

Changes in VAT Rates

- The standard VAT rate was reduced from 24% to 20% as of 1 January 2016 and, according to the current wording of the New Tax Code, will be reduced from 20% to 19% as of 1 January 2017;
- The lower VAT rate of 5% is also applicable for sports events, tickets to cinemas, museums, monuments, zoos, exhibitions, cultural events, supply of books, newspapers, magazines;
- The lower VAT rate of 5% for the supply of social houses is applicable for supplies of up to RON 450,000 (under the previous regulations, the ceiling was set at RON 380,000).

Practical matters of interest for the taxpayers mainly concern the applicable rate for operations by reference to the date of the generating fact. The general rule is that the generating fact (i.e., the actual time when the goods were supplied / the services were provided) determines the applicable rate, so that an invoice issued in January 2016 for a supply/ provision where the generating fact occurred in December 2015 will be subject to the rate applicable in 2015. Conversely, if upfront payment invoices are issued in 2015 (at the 2015 rate) for a future supply/ provision to occur in 2016, the upfront payment will be set off by reference to the applicable rate on the date of the generating fact (i.e., the 2016 rate).

Changes in Reverse Taxation

As of 1 January 2016, the reverse taxation system is also applicable to buildings, parts of a building and lands of any kind, for the supply of which the taxation treatment by operation of law or by option is applicable. In addition, reverse taxation applies, until 31 December 2018, to the supplies of mobile phones, integrated circuit devices, such as microprocessors and central processing units, before their integration into products for the end user and the supplies of game consoles, PC tablets and laptops; reverse taxation is applicable only for invoices above RON 22,500.

The general rule is that one must apply the rule (related to the tax obligor, i.e. either the seller or the buyer by reverse taxation) which is valid on the date when the tax is payable, not on the date of the generating fact. The difference between "payable" and "generating fact" may be understood from Article 282 of the New Tax Code: *"(1) The tax becomes payable on the date of the generating fact. (2) As an exception from para. (1), the tax becomes payable: a) on the date when an invoice is issued, before the date of the generating fact; b) on the date when the upfront payment is collected, for upfront payments made before the date of the generating fact. Upfront payments are the payment in full or in part for goods and services, before the supply or the provision thereof; (...)".*

Considering the provisional rules which are specific to the changes of applicable rates, for instance, if an upfront payment is invoiced in 2015 for a future supply of buildable land which will be supplied in 2016, the upfront payment invoice shall be set off by applying the rate in force in 2016 (20% instead of 24%), but no reverse taxation by the buyer will be applied, because the upfront payment invoice became payable in 2015, when reverse taxation was not applicable for the supply of immovable assets. The wider scope of application for reverse taxation as of this year, given that the beneficiary must also be registered for VAT purposes in order to benefit of the streamlining measure, may generate in practice additional frustrations in relation to the current procedure of registration for VAT purposes by option. Criticisms concern, first of all, the lack of transparency and predictability and the information requested in the famous form 88+.

Other Technical Changes of General Interest

- The provisions on the transfer of business are applicable only if the acquirer of the assets is a>

taxable person established in Romania (Article 270(7));

- Small enterprises applying the special exemption treatment and then registering for VAT purposes must set off the upfront payments collected or the invoices issued under the exemption treatment, in order to apply the taxation treatment on the date of the generating fact (Article 280(6));
- For the food products past their expiration date which can no longer be sold, the taxable base shall be determined in accordance with a procedure to be provided in the Methodological Rules (Article 286(1)(c));
- The VAT taxation base may be adjusted by reference to the equivalent value of supplies/ provisions, when the VAT cannot be collected as a result of the confirmation of a reorganization plan whereby creditor's receivable is modified or eliminated, according to insolvency laws (Article 287(d));
- Full VAT deduction at the initial time is granted for the acquisitions made during the investment process by the persons taxable under a mixed system, making the investment in order to perform both deductible and non-deductible operations; after investment completion, the deducted tax will be adjusted in accordance with the legal provisions (Article 300(5));
- The beneficiary may exercise its right of deduction even after expiry of the statute of limitations, if the supplier issues correction invoices further to the tax inspection (Article 301(2));
- The VAT return shall not include the amounts for which a payment facility was approved and the amounts with which the tax authority registered itself in the table of receivables (Article 303(4));
- The balance of the negative VAT amount recorded in the VAT return for the taxation period preceding the insolvency opening date as provided by the laws in force shall not be included in the tax return for the taxation period when proceedings were opened, in which case the debtor must request the reimbursement of the tax by adjusting the return for the previous taxation period (Article 303(7)). The purpose of this rule is to allow the compensation of the reimbursable VAT amounts against the tax liabilities born before the opening of insolvency proceedings;
- Taxable persons may waive the VAT reimbursement request based on a notification submitted to the tax authority by the date when the reimbursement decision or the taxation decision concerning the additional tax liabilities determined by the tax inspection is served, and they will take over the balance of the negative amount requested for reimbursement in the VAT return for the taxation period following after submission of the notification (Article 303(8));
- The scope of capital assets has been broadened so as to include all tangible fixed assets, irrespective of their regular time of use. The New Tax Code also amends the VAT adjustment procedure for the tangible fixed assets which, according to the Tax Code in force, are not considered capital assets (Article 305). According to Article 266(1)(3), tangible fixed assets mean any depreciable tangible fixed asset, buildings and lands of any kind, held in order to be used for the production or supply of assets or for the provision of services, in order to be rented to third parties or for administrative purposes;
- When calculating the exemption ceiling for small enterprises, new vehicles are no longer excluded (Article 310(2));
- The New Tax Code implements the Judgment of the Court of Justice of the European Union C-183/14 Salomie and Oltean concerning the recognition of the right of deduction in retroactive VAT registration by the tax authorities (Article 310(6));
- The New Tax Code introduces beneficiary's obligation to issue a self-invoice if the VAT taxation base is adjusted (e.g., refusal of the quality, quantity or price of supplied goods or provided services), if supplier's cancelation invoice is not received (Article 319(3)).

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News and Views

/ Let Our Team Do the Talking!

Let Our Team Do the Talking!

As part of our value-added client service programme, Ţuca Zbârcea & Asociaţii regularly host bespoke events for the firm's clients and other interested parties.

Our seminars are intended to create a platform for dialogue and generate a vivid exchange of information on the hottest topics in the legal world. Benefitting from an integrated approach to the legal practice, our seminars are often led by the firm's senior lawyers, tax consultants or insolvency practitioners.

One of our most recent events took place on 18 February at the Cesianu-Racovita Palace (the Artmark Galleries). It gathered tax managers, financial officers, accountants and economists interested in staying abreast of the latest tax regulations.

'The New Tax Code and the Methodological Rules. What to expect in 2016?' offered a preview of key tax legislation that affects businesses today. Our keynote speakers from Ţuca Zbârcea & Asociaţii Tax, the firm's tax arm, discussed the latest legislative changes to identify their core effects on the business environment. With a New Tax Code and recently published Methodological Rules in place, Romanian companies have to deal with a considerable amount of regulatory changes which may prove to be a genuine challenge in 2016. The following topics were covered: profit tax; VAT; non-resident income tax; income tax; social security contributions; local taxation.

Most of the discussions focused on VAT, income tax and the tax on buildings. For instance, some of the participants sought clarifications on how to calculate income tax, on the tax treatment of certain expenses and revenues, or how to apply the tax exemption for reinvested profit. Others were interested in learning more on the application of the transitional provisions on VAT, the adjustment rules for capital assets, the reverse charge mechanism under the new tax rules and so on.

All participants acknowledged the importance of observing the new rules and applying the law correctly so as to manage tax risks in tax compliance checks.

The round table was an exchange of ideas supported by examples and case studies on practical issues from the perspective of changes in tax legislation. It brought an insightful overview on the recently enacted amendments to the Tax Code and the related Methodological Rules. Also, it gave our lecturers the opportunity to interact with some of>

the largest investors in Romania while gaining a better understanding of the issues that businesses face in practice.

Year 2016 brings tax relaxation measures by cutting VAT from 24% to 20% and reducing dividend tax to 5%. However, it also introduces a 10.5% mandatory pension contribution for independent contractor income and higher property taxes. Also, tax legislation is streamlined and clarified in several respects starting from 2016.

With more issues and controversies set to surface over the following months, our team of tax advisors and lawyers is ready to guide you through the maze of tax information. Please feel free to contact us for tailored tax or legal advice and bespoke events. We will soon start planning our next seminar and will gladly welcome you to our debates!

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/ The materials included herein are prepared for the general information of our clients and other interested persons. They are not and should not be regarded as legal advice.

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