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Extension of the e-Invoice system for the B2C relationship, as well as other important changes

GEO 69/2024 published on June 21, 2024 and amended by GEO 87/2024 published on June 28, introduces new obligations regarding reporting in the RO e-Invoice system, as follows:

A. On the use of the system for the B2C relationship

- Between July 1, 2024 and December 31, 2024, economic operators - taxable persons established in Romania, regardless of whether or not they are registered for VAT purposes, for the supplies of goods and services that have the place of supply in Romania made in the B2C relationship, can submit the invoices issued in the national system on electronic invoicing RO e-Invoice.
- Starting with January 1, 2025, the above-mentioned economic operators will have the obligation to submit the invoices issued in the national system regarding the electronic invoice RO e-Invoice. Exceptions are simplified invoices issued according to art. 319 para. (12) of the Fiscal Code.
- An important clarification included in the ordinance provides that the supplies of goods/services made to a natural person who identifies himself in the relationship with the supplier/provider by the personal identification number are considered to be made in the B2C relationship.
- The penalties for failure to submit these invoices will be applied from July 1, 2025, with fines ranging from:
 - 5,000 lei to 10,000 lei for legal entities classified in the category of large taxpayers.
 - 2,500 lei to 5,000 lei, for legal entities classified in the category of medium-sized taxpayers.
 - 1,000 lei to 2,500 lei, for other legal entities, as well as for individuals

B. Provisions applicable to associations, foundations and individual farmers

- Between July 1, 2024 and June 30, 2025, associations, foundations, as well as individual farmers can opt for the use of the RO e-Invoice system.
- Starting with July 1, 2025, the RO e-Invoice system becomes mandatory for these two categories as well.
- Until July 1, 2025, associations and foundations as well as individual farmers who carry out economic activities have the obligation to apply for registration in the RO e-Invoice Mandatory Register.

C. Other clarifications regarding the use of the RO e-Invoice system

- Taxable persons established in Romania, who issue invoices for transactions that are not within the scope of VAT or for amounts that are not included in the VAT tax base (e.g. penalties), for which there is no obligation to issue an invoice, are not obliged to use the national RO e-Invoice system for these invoices.
- Self-invoices issued by taxable persons established in Romania are considered invoices issued in the B2B relationship.
- It is not mandatory to use the RO e-Invoice system for the supplies of goods/services made by the persons referred to in art. 294 para. (1) letter j) - n) of the Fiscal Code (i.e. diplomatic missions, consular offices, international organizations, etc.).
- Until July 1, 2025, it is not mandatory to use the national RO e-Invoice system for the deliveries of goods/services made by the cultural institutes/centers of other states operating on the territory of Romania based on intergovernmental agreements.
- However, these persons can choose to send invoices in the RO e-Invoice system, by the option of registering in the RO e-Invoice Optional Register.
- Similarly, taxable persons established in Romania who make supplies of goods/services to these bodies do not have the obligation to issue invoices in the RO e-Invoice system unless the beneficiaries have opted for registration in the optional RO e-Invoice Register. In the case of deliveries of goods/services to cultural institutes/centers of other states operating on the territory of Romania, invoicing through the RO e-Invoice system will be mandatory from July 1, 2025.
- If it is mandatory to send the invoice through the national RO e-Invoice system, the beneficiaries who do not receive the invoices through the system for supplies of goods/services for which the payment is made at the time of delivery/provision, may notify the competent tax authorities in this regard.

D. Changes regarding the use of cash registers

- The tax receipt will also have to mention the identification number of the receipt.
- The date and time of issuance of the tax receipt, the identification number of the tax receipt, as well as the tax series of the electronic fiscal cash register will have to be printed on the tax receipt and in the form of a QR code.
- The daily closing tax report issued by the electronic fiscal cash register must also contain the following data: the number of tax receipts that have the tax identification code of the beneficiary, their total value, the total value added tax related, the identifier of the electronic journal, the number and value of discounts, cancellations, service amounts, as well as the resulting amounts for each means of payment used. The service amounts represent the amounts of money used for the payment of the rest to the customer, made available to the operator of the electronic fiscal cash register at the beginning of each working day. These are found in the balance of the

cash account and also in the balance at the end of the working day.

- If, following the testing at the National Institute for Research and Development in Informatics, it is found that from a technical point of view it is not possible to print in the form of a QR code the date and time of issuance of the fiscal receipt, the identification number of the fiscal receipt, as well as the fiscal series of the fiscal electronic cash register, the users of these fiscal electronic cash registers have the obligation to comply within a maximum of two years from the entry in force of the emergency ordinance.

E. Amendments to Ordinance no. 6/2019 on the restructuring of budgetary obligations

- It is specified that the tax liabilities representing excise duties are not subject to restructuring.

Implementation of the e-VAT system

GEO 70/2024 published on June 21, 2024 and amended on June 28, 2024 by GEO 87/2024 implements the e-VAT system, with implications for all taxpayers registered for VAT purposes in Romania.

The pre-filled VAT return RO e-VAT is implemented starting with August 1, 2024 for operations carried out starting with July 1, 2024 by taxable persons registered for VAT purposes.

The pre-filled RO e-VAT return is sent, for each fiscal reporting period, to taxable persons registered for VAT purposes, by electronic means, until the 5th of the month following the legal deadline for submitting the value added tax return.

The information included in the pre-filled statement is taken from the following IT systems:

- The national system regarding electronic invoicing RO e-Invoice.
- The national RO e-Transport system.
- The national RO e-Seal system.
- The national information system RO e-SAF-T.
- National information system RO e-Electronic Cash Registers.
- Integrated customs information system.
- Other information systems of the Ministry of Finance.

Also, the deadline for submitting the recapitulative statement will be modified, so that data from this statement can be taken over in the pre-filled statement. However, the recapitulative statement for June 2024 must be submitted by July 25, 2024 inclusive.

By the 5th of the month following the legal deadline for submitting the value added tax return, the tax authority will:

- Send the pre-filled RO e-VAT return by electronic means.
- Compare the data submitted in the VAT return with the data in the pre-filled return, and in the event that significant differences are identified, ANAF will notify the taxable person by electronic means.

Significant differences are understood to be the values that exceed the materiality threshold that meets the cumulative conditions of at least 20% in percentage and an absolute value of at least RON 5,000, resulting from the comparison of the values entered in the rows of the value added tax return submitted by the taxable person with those corresponding to the rows of the pre-filled RO e-VAT return. After identifying the significant differences, a notification of compliance shall be sent by electronic means, also until the 5th of the month following the legal deadline for submitting the value added tax return, through the electronic form "Notification of compliance RO e-VAT".

It should be noted that even if differences below the materiality threshold are identified, the National Agency for Fiscal Administration, based on the risk analysis, will still be able to submit the "RO e-VAT Compliance Notification".

The RO e-VAT compliance notification will not apply:

- In the case of material errors.
- In the situation where there is not enough information in the databases of the tax authority for certain lines of the pre-filled e-VAT return or this information in the databases is not correlated.
- In other situations provided by order of the Minister of Finance.

The taxable person will have the obligation to transmit, by electronic means, the result of the verifications carried out on the differences communicated through the "Notification of RO e-VAT compliance", in response to it, within 20 days from the date of receipt of the notification. Failure to provide or partially provide information to clarify the differences between the pre-filled values through the pre-filled RO e-VAT return and the values filled in by the taxable person registered for VAT purposes through the value added tax return is a tax risk indicator regarding the level of value added tax declaration.

ANAF will analyze the response of the taxable person and will order the legal measures in accordance with the powers assigned and the objectives of this normative act.

The RO e-VAT compliance notification will not be taken into account when establishing the fiscal risk indicators until January 1, 2025.

It is a contravention to fail to comply with the obligation of the taxable person to submit the response to the notification of compliance received and is sanctioned with a fine from:

- 5,000 lei to 10,000 lei, for legal entities classified in the category of large taxpayers.
- 2,500 lei to 5,000 lei, for legal entities classified in the category of medium-sized

taxpayers.

- 1,000 lei to 2,500 lei, for other legal entities, as well as for individuals.

According to the GEO, the obligation to submit responses to compliance notifications as well as the possibility of imposing sanctions will become applicable as of January 1, 2025.

As for taxable persons applying the VAT collection system, the obligations regarding the e-VAT system described above will apply starting with August 1, 2025.

Approval of the Procedure for the use and operation of the national RO e-Transport system as well as the extension of the application of fines for taxable persons who have the status of authorized economic operator

A. Extension of the application of fines for taxable persons who have the status of authorized economic operator

- Through GEO 87/2024, published on June 28, 2024, an important amendment is made to GEO 115/2023 from the perspective of the application of sanctions for non-fulfillment of obligations regarding the RO e-Transport system.
- Specifically, the Ordinance published on Friday evening provides that for users who have the status of authorized economic operator on the date of international transport of goods, the provisions regarding the application of sanctions enter into force on January 1, 2025 and apply to the transports performed starting with this date.

B. Main provisions included in the new procedure for the use and operation of the RO e-Transport system

- By Order 1.337/1.268/2024 published on June 27, 2024, a new procedure for the operation of the RO e-Transport system was approved, which includes clarifications for international transport of goods as well as other specific situations that were not previously regulated.
- Thus, it is clarified that, both in the case of transports of goods with high fiscal risk and in the case of international transports of goods, the categories of road vehicles subject to monitoring are those that have a maximum technically permissible mass of at least 2.5 tons, loaded with goods with a total gross mass of more than 500 kg, or a total value of more than 10,000 lei, related to at least one consignment of goods subject to transport.
- As for the information to be included in the system, it refers to the sender, beneficiary or recipient, the name, characteristics, quantities and value of the transported goods, the places of loading and unloading, details regarding the means of transport used and the carrier, the declared date for the start of the transport, as well as the UIT code generated.
- When establishing the total gross mass of the goods that are the subject of a batch of goods for which there is an obligation to declare in the RO e-Transport System, the net mass of the transported goods and the mass of the packaging necessary for the sale and transport of the goods are taken into account.
- Regarding the determination of the total value of the goods subject to transport declared in the RO e-Transport System, the following will be taken into account:
 - The value of the transported goods does not include VAT.
 - In the case of commercial transactions settled in foreign currency, the conversion into lei will be made at the exchange rate of the National Bank of Romania valid on the date of declaration of the transport in the RO e-Transport System.
 - Depending on the type of transaction declared in the RO e-Transport System, the value of the transported goods will refer to the value known according to the commercial, financial or accounting documents, as the case may be, at the time of declaration.
 - In the case of import operations, the value of the declared goods is the value recorded in the external invoice.
- If, exceptionally, the transport declared in the RO e-Transport System is not completed within the validity period of the UIT code, the declarant will invalidate the transport in the RO e-Transport System and will resume the operation of declaring the transport and obtaining a new UIT code.
- Thus, after the vehicle has actually been set in motion on public roads, within the validity period of the UIT code, the declarant can select the "Refuted" option in the "Transport Confirmation" area of the RO e-Transport application, mentioning the cause in the "Confirmation comment" data field, and a new UIT code will be obtained for the respective transport based on the new data.
- During the 3 calendar days of validity of the UIT code, but no later than the actual movement of the vehicle on public roads, the data declared in the RO eTransport System can be modified by keeping the initial UIT code.

C. Goods not received or partially received

- In the event that the goods for which there is an obligation to declare in the RO e-Transport System have not been received or have been partially received by the beneficiary/recipient mentioned in the RO e-Transport System at the time of obtaining the UIT code, the unreceived goods will return to the loading warehouse or to the nearest warehouse of the sender based on the initial UIT code. The subsequent return of the goods that have been received forms a new consignment of goods for which it is necessary to obtain a new UIT code by the party returning the goods.
- In the case of an international transport of goods with a supplier from Romania, the

subsequent return of the goods that have been received forms a new batch of goods for which it is necessary to obtain a new UIT code from the initial supplier.

- After receiving the returned goods if the obligation to declare is incumbent on the supplier or after non-receipt if the obligation to declare is incumbent on the beneficiary, the declarant will mention the return in the "Transport Confirmation" area of the RO e-Transport computer application, selecting the option "Refuted" or "Partially confirmed", followed by mentioning the returned quantities in the "Confirmation comment" data field. The data regarding the return will be mentioned in the RO e-Transport System during the validity period of the UIT code

E. Obligations of the carrier

- In the event that the transport vehicle is equipped with devices for automatic transmission of positioning data, the road transport operator is obliged to ensure the proper functioning of those devices in order to meet the requirement of transferring the current positioning data of the transport vehicle, which are the subject of the declaration, throughout the transport route.
- Before starting the route of a transport that is subject to the RO e-Transport System, it is mandatory to enter the UIT codes and assign them to the automatic transmission devices of the positioning data with which the transport vehicle is equipped in order to transmit it to the ANAF servers. After the end of the transport, the automatic transmission of positioning data devices will not have UIT codes assigned.
- In the event that the transport vehicle is not equipped with automatic positioning data transmission devices, the road transport operator is obliged to equip the transport vehicles with telecommunications terminal type devices that use satellite positioning and data transmission technologies (functional mobile phone devices) on which the computer modules made available by the National Center for Financial Information have been installed.
- The road transport operator is obliged to provide the driver with the UIT code received from the users of the RO e-Transport System, in any intelligible form of presentation.

F. Obligations of the driver of the transport vehicle

- In the case of a transport of goods for which there is an obligation to declare in the RO e-Transport System, carried out with a transport vehicle equipped with telecommunications terminal-type devices, the driver of the transport vehicle has the obligation to turn on the positioning device and to enter the UIT codes related to the transport before the start of the transport on the national territory, respectively to stop the positioning device only after the delivery of the goods to the place of delivery declared on the national territory or after leaving the national territory.
- The driver of the transport vehicle is obliged to submit, at the request of the competent bodies, the documents accompanying the transport of goods subject to monitoring through the RO e-Transport System together with the UIT code. The UIT code may be presented in any intelligible form.

G. Clarifications regarding the transport of goods with high fiscal risk representing agricultural products

- The transport of goods with high fiscal risk representing agricultural products purchased from agricultural producers on the basis of the marketing booklet, as well as the transport of goods with high fiscal risk carried out by individual agricultural producers from the place of holding to the place of sale are not subject to declaration in the RO e-Transport System.
- The transport of goods with high fiscal risk representing vegetable agricultural products is also not subject to declaration in the RO e-Transport System.