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Fiscal Bulletin



Summary:

1. **Government Emergency Ordinance No. 8/26.02.2014 amending and supplementing certain normative acts and other fiscal measures**

Important amendments brought to the Tax Code and to the Tax Procedural Code

Government Emergency Ordinance No. 8/2014 (“GEO No. 8/2014”), published in the Official Gazette No. 151 dated February 28, 2014, brought important amendments to the Tax Code and to the Tax Procedural Code, which are summarized below.

The amendments entered into force on February 28, 2014 unless otherwise stated.

Amendments brought to the Tax Code

1. Corporate income tax

It is mentioned that the income received from the sale/ the assignment of participation titles held in a Romanian legal entity by another legal entity, resident in a state in relation to which Romania has not concluded a double tax treaty, are not exempt from tax.

2. Income tax

Taxpayers authorized to carry out agricultural activities having the tax base established at specific thresholds holding farming plots situated in more than one location are granted the option to choose the location where they will benefit from the exemption granted for each group of agricultural products obtained.

Their option shall be exercised by submitting the declaration regarding income from agricultural activities based on income norms.

3. Withholding tax

The provisions regarding the refund procedure for the tax withheld by the Romanian resident entities (exceeding the fiscal obligation) upon payments made to nonresidents have been eliminated from the Fiscal Code.

The refund procedure is now regulated by the Fiscal Procedural Code.

4. VAT

Starting with January 1, 2015, the place of taxation of telecom, radio, television and electronic services supplied to non-taxable persons is where the beneficiary is established. Also, the special regime for electronic services supplied by taxable persons not established in the European Union is extended to telecom, radio and television services. In addition, a similar regime for taxable persons established in the EU but not established in the Member State of consumption (where the beneficiary of the services is established) is implemented.

5. Excise duty

In case of revocation of the tax warehouse license, a new license may be issued within 6 months from the effective date of the revocation, even if the revocation is challenged. It specifically mentioned that sales with premiums to the final consumer do not apply to excisable goods subject to marking rules. Provisions regarding the sales of excisable goods owned by the operators subject to bankruptcy proceedings are introduced. For the platinum jewellery or combined with 14K gold or gold over 14K, the duty is 2 euro / gram.

Amendments brought to the Tax Procedural Code

Late payment interest is reduced from 0.04% per day to 0.03% starting with the 1st of March. The new interest corresponds to a new annual level of 10.95%.

New means of evidence could be used to assess tax facts and figures, such as audio-visual records, data and information stored by any means, as well as any other means of evidence which are not restricted by law.

Payers of income for work, remuneration for directors or other similar persons, insurance products not covered by other legal instruments of the European Union and the payers of pensions have the obligation to submit an annual return on the income paid to each beneficiary during the previous year until the last day of February. Also, the residents of other European Union Member States obtaining income from properties owned in Romania have the obligation to submit an annual return on the income obtained during the previous year until the May 25, 2014. As a transition measure, those owning a property in Romania until the entering into force of the GEO No. 8/2014 have to submit the return until June 30, 2014.

New provisions regarding the VAT refund are introduced, while an order of the Ministry of Finance on the procedure and the conditions for refund will be re-published. Thus, for the VAT returns showing a refundable amount of less than 45,000 lei, the refund will be granted automatically and the tax audit will be performed afterwards. For the VAT returns showing a refundable amount higher than 45,000 lei, the tax authority will decide if the tax audit has to be performed prior or after the refund, according to the result of a risk analysis. These provisions are applicable starting with the tax periods after March 1, 2014.

The tax returns could be certified, by option, by a certified tax consultant. The certification will be an evaluation criterion when performing the risk analysis for the purpose of selecting the taxpayers for the tax audit.

Following the annulment of an administrative act by which tax liabilities have been established and paid by the taxpayer, the taxpayer is entitled to interest on the entire period during the moment of paying the tax liabilities to the moment of refund/compensation of the amount.

The regional directions of public finance will be responsible for solving appeals for a challenged amount of less than 5 million lei (previously 3 million lei).

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Editors

Țuca Zbârcea & Asociații Tax S.R.L. is the specialised tax consultancy entity of Țuca Zbârcea & Asociații, offering a full range of advisory and compliance services. Țuca Zbârcea & Asociații Tax S.R.L. covers transaction planning, operational tax advice, efficiency structures (tax optimization schemes), tax reviews and due diligence, tax authorities' audits and dispute resolution (including mitigating the risks and the potential impact of time-consuming disputes with local fiscal authorities), tax compliance and representation, as well as transfer pricing. Our team comprises seven tax consultants previously working in management positions with Big Four companies and the Ministry of Finance. The group cooperates closely with the firm's lawyers specialising in administrative law, as well as contentious-administrative disputes.

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