

TAX ALERT
12th January 2024

**A NEW PACKAGE OF TAX MEASURES
APPLICABLE FROM 1st JANUARY 2024**

Government Emergency Ordinance no. 115/2023 regarding some fiscal and budgetary measures in the field of public spending, for fiscal consolidation, combating tax evasion, for the modification and completion of some normative acts, as well as for the extension of some deadlines ("GEO 115/2023") was published in the Official Gazette of Romania, Part I, no. 1139/15.12.2023.

GEO 115/2023 entered into force on 1st January 2024, with certain exceptions.

GEO 115/2023 regulates a new package of fiscal measures to reduce the excessive budget deficit.

This bulletin presents the most important fiscal measures and changes, changes regarding financial discipline, as well as changes to the Accounting Law.

PROFIT TAX

In the field of profit tax, measures are regulated to limit certain types of expenses, to recover fiscal losses, to widen the taxable base, as presented below.

Tax losses

- **The annual tax losses established by the profit tax return, starting from the year 2024/the modified fiscal year starting in the year 2024, are recovered from the taxable profits made, within the limit of 70% inclusive, in the next 5 consecutive years.**
- **The annual tax losses established by the profit tax declaration, related to the years preceding the year 2024/the year starting in 2024, remaining to be recovered on 31st December 2023, are recovered from the taxable profits made starting from the year 2024, within the limit of 70% from the respective taxable profits, for the period remaining to be recovered from the 7 consecutive years following the year of recording the respective losses.**

Social premises acquired in individual residential buildings/housing complexes located in residential areas

- **A new deduction limit is introduced for the calculation of the fiscal result of 50% of the operating, maintenance, repair, and amortization expenses related to a registered office, which are registered in connection with the registered offices purchased by taxpayers in residential buildings or in individual buildings of lived in, from residential complexes, social premises that are not used exclusively for carrying out the economic activity of these taxpayers.**
- **At the same time, if the registered office, located in the taxpayer's patrimony, is used for personal purposes by the shareholders/ associates, the respective expenses are not deductible when calculating the tax result.**

Adjustments for impairment of trade receivables

- **Adjustments for the impairment of trade receivables will be deductible within the limit a 30% (reduced from 50%).**
- **The categories of receivables for which this deduction limit is applied are narrowed to the amounts owed by internal and external customers for products, semi-finished products, materials, goods sold, works performed and services provided.**

- These provisions apply to receivables registered as of 1st January 2024.

Rules on limiting the deductibility of interest and /other costs equivalent to interest from an economic point of view

- The excess costs of indebtedness resulting from transactions/operations that do not finance the acquisition/production of fixed assets under execution/assets established for turnover taxes and which are carried out with related persons, **will be deducted, in a fiscal period, up to the deductible ceiling of 500,000 euro.**
- **The deductible ceiling of 1,000,000 euro for the total excess costs of indebtedness** resulting from transactions/operations carried out with both affiliated and non-affiliated persons, which can be deducted in a fiscal period, **does not change.**

Fiscal cash registers. Sponsorships. Private scholarships

- The purchase cost of fiscal cash registers is no longer deducted from the profit tax, **as it will be recorded as expenses or recovered through tax depreciation.**
- **Private scholarships are no longer deducted from the profit tax but are deducted:**
 - within the limit of 5% of the amount of expenses with staff salaries, and
 - within the limit of **1,500 lei for each scholarship awarded.**
- In the case of unused sponsorships, the redirection of the profit tax, for the performance of sponsorships and/or acts of patronage, will be possible until the deadline for submitting the annual profit tax return (*reduced from the deadline of a maximum of 6 months from the date of submission of the annual income tax return*).
- The profit tax redirection forms for the year 2023/ the amended fiscal year ending in 2024 are submitted by the deadline for submitting the annual profit tax return.
- The last fiscal year in which the amounts representing private scholarships/ electronic fiscal registers, remaining to be carried forward, are deducted from the profit tax is fiscal year 2023, respectively the modified fiscal year that ends in 2024.



MICRO-COMPANIES' INCOME TAX

In the field of micro-company's income tax, rules are established to reduce the scope of this tax system, as well as to prevent the artificial division of enterprises to access the microenterprise regime.

The condition of ownership by associates/shareholders of three micro-enterprises

- The analysis of the current condition of direct ownership by associates/shareholders of more than 25% of the value/number of participation titles or voting rights is extended to indirect ownership.
- Reducing the number of micro-companies owned by a shareholder/associate, for the application of this taxation system to a single micro-company.
- The associates/shareholders must establish, by March 31 of the following fiscal year inclusive, the company that will apply the micro scheme.

The new condition regarding the submission of annual financial statements

- The introduction of a new condition related to the obligation to submit annual financial statements on time for inclusion in the tax system of micro-enterprises.
- For the application of the micro scheme in the fiscal year 2024, the condition is considered fulfilled if the annual financial statements are submitted by 31st March 2024 inclusive.

Situation of related enterprises

- If a micro-company finds itself in special relations with other Romanian legal entities, which lead to their inclusion in the category of "**related enterprises**" (*defined according to Law no. 346/2004 on the stimulation of the establishment and development of small and medium-sized enterprises*) **the condition related to the establishment of the ceiling of 500,000 euros must be verified on the basis of the combined income for all related enterprises, including those of the person who verifies the fulfilment of the micro-company conditions.**

- The verification of the application of the provisions regarding the **25%** quota, the submission of annual financial statements and the maintenance of a single company that applies the micro tax, is carried out based on a procedure approved by order of the National Agency for Fiscal Administration.

Sponsorships

- The possibility of deduction from the micro tax of sponsorships, scholarships awarded to students enrolled in dual professional education and electronic tax machines is eliminated.

INDIVIDUAL INCOME TAX AND SOCIAL CONTRIBUTIONS

Salary income

- **The salary benefit represented by the monthly amount of 400 lei granted to employees performing telework activities will no longer be tax-free starting with the income related to January 2024.**
- The annual ceiling is reduced from 400 euros to 100 euros, in the case of sports subscriptions, both when they are borne by the employer for its own employees, and when they are borne by the employee, in his own name or for persons in his maintenance.
- Only natural persons who obtain salary income from Romania or who carry out their activity in Romania and who obtain income from salaries and similar to salaries from abroad **will be able to redirect 3.5% of the income tax due**, to support non-profit entities and units of cult, and for the awarding of private scholarships.

Income from the transfer of the use of goods

- A fixed share of expenses of **20%** of the gross income obtained from the transfer of the use of goods is introduced.
- The obligation to switch to the application of the real taxation system is eliminated, by qualifying them as income from self-employed activities, in the event of the performance of more than 5 rental contracts at the end of the fiscal year.

Determining the annual net taxable income

- The recovery period for fiscal losses from the income/earnings obtained is reduced, from 7 consecutive years **to 5 consecutive years**, starting with the one established in the year 2024.
- Losses can be offset against the annual net income obtained from the same source of income only within the limit of **70%**.

Additional tax on sick leave in 2024: 10% for employees, including PFA

- From 1st January 2024, Romanian employees who go on medical leave will receive lower allowances. These will be charged additionally with 10%, representing social health insurance contributions (CASS).
- However, allowances granted following work accidents or occupational diseases, based on Law no. 346/2002, will not be taxed with CASS.

THE TAX TREATMENT OF EXPENSES WITH EARLY EDUCATION

| Starting the income related to January 2024 | |
|---|--|
| Profit tax | Salary tax and social contributions |
| <p>Expenses with early education will represent social expenses and will be deducted as follows:</p> <ul style="list-style-type: none"> ▪ the amounts paid by the taxpayer for the placement of employees' children in early education units are limited to the amount of 1,500 lei/month for each child; ▪ deductible up to 5% of staff salary expenses. | <p>Included in the non-taxable monthly ceiling of no more than 33% of the basic salary corresponding to the job held are the amounts borne by the employer for the placement of the children of its employees in early education units, within the limit established by it, but not more than 1,500 lei/month for each child.</p> <ul style="list-style-type: none"> ▪ In the case of amounts paid directly by the employee, they are covered by the employer, within the same ceiling, based on the supporting documents presented by the employee. ▪ The amount is granted to a single parent, to a single employer, by presenting a self-responsible declaration from the parent. <p>If the parent works for several employers, he/she as employee must declare that he/she does not benefit from such payments from another employer.</p> |

VAT

- **After obtaining an exemption from the application of Directive 2006/112/EC, it will be limited at 50% the right to deduct the tax related to the purchase, rental or leasing of buildings/living spaces, regardless of their destination, located in residential areas or in housing blocks and the tax related to the expenses related to these buildings/living spaces if they are not used exclusively for the purpose of economic activity.**
- **The incentive to postpone the payment of VAT to customs for taxable persons registered for VAT purposes who have obtained an authorized economic operator certificate is eliminated.**
- **It is stipulated that no actual payment of VAT is made to customs authorities for imports made by taxable persons registered for VAT purposes, who submit customs declarations using the centralized customs clearance procedure.**
- **The reduced VAT rate of 9% also applies to milk powder for newborns, infants, and young children, regardless of the total sugar content.**

RO e-Invoice

- The following supplies are exempted from the obligation to report/transmit in/through the national RO e-Invoice electronic invoice system, in addition to intra-community deliveries of goods and exports of goods:
 - deliveries of goods/services for which simplified invoices are issued;
 - supplies of goods/services made to taxable persons who are neither established nor registered for VAT purposes in Romania;
 - the provision of services for which the issuing of the invoice is not subject to the invoicing rules applicable in Romania.
- Solutions are established for the situation in which the national system regarding the RO e-Invoice does not work.

- Starting 1st July 2024, equal fines will be applied to the issuer of the invoice and the recipient of the invoice (taxable persons established in Romania), if the invoice for B2B transactions is not issued/received through RO e-Invoice, **namely 15% of the total value of the invoice.**
- The deadline for sending RO e-Invoice invoices is 5 calendar days from the date of invoice issuance, but no later than 5 calendar days from the deadline for issuing the invoice.
- Starting 1st July 2024, non-compliance with this term is sanctioned as follows:
 - with a fine from 5,000 lei to 10,000 lei, for the category of high taxpayers;
 - with a fine from 2,500 lei to 5,000 lei, for medium taxpayers;
 - with a fine from 1,000 lei to 2,500 lei, for other legal entities, as well as for natural persons.

VAT and EXCISE DUTIES

- The sugars from unsweetened fruit juices, fruit juice concentrate and fruit purees are removed from the definition of added sugar, considering that they do not affect health to the same extent as other types of added sugars.

FINANCIAL DISCIPLINE

- The Law no. 70/2015 for strengthening financial discipline regarding cash receipts and cash payments was amended as follows:
 - Supermarkets and hypermarkets are defined simultaneously with the establishment of a differentiated ceiling in the case of these entities.
 - **A daily ceiling of 5,000 lei** is established for each person who received advances for settlement (increased from 1,000 lei).
 - Receipts or repayments of loans or other financing, regardless of their nature and destination, must be carried out only through non-cash payment instruments.

Failure to comply with these provisions constitutes a misdemeanour, if it was not committed under such conditions that, according to the criminal law, constitutes a crime, **and is sanctioned with a fine of 25% of the amount received/paid, but not less than 500 lei.**

- These provisions entered into force on 26th December 2023.

CHANGES TO THE ACCOUNTING LAW

- Legal entities without patrimonial purpose that received sponsorships, redirects, as well as other similar forms of financing, regardless of their cumulative value, must prepare a statement accompanying the annual financial statements certifying the amounts received/used.
- **Non-compliance with these provisions is sanctioned with a fine from 20,000 lei to 30,000 lei.**
- These provisions apply starting with the annual financial statements related to 2023-the financial year.

For more details related to the subjects in question, as well as other measures, I recommend you consult the text of GEO 115/2023.

I hope you find this newsletter helpful.

I encourage you to send this newsletter to your colleagues.

I am available for further details on the above.

Regards,

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