

Latest legal changes brought to the Fiscal Code in Romania

The Fiscal Code was amended by Government Ordinance 16/2022 published on 15 July 2022. Some of the amendments proposed shall enter into force in 2022, while the majority of the amendments to the Fiscal Code shall enter into force in January 2023.

There were many discussions in the business community regarding the proposed changes, with the community advocating for changes to the recently adopted amendments. Therefore, it is quite possible that by the end of the year the Fiscal Code will be changed yet again.

We highlight below the main changes brought to the Fiscal Code:

a. The changes entering into force on 1 August 2022 refer to excise duties, special taxes and some income taxes

- The level of excise duties for alcoholic drinks and processed tobacco is raised
- In 2023 the level of applicable excise duties for gasoline and diesel will no longer be updated in accordance with the rise in consumer prices from the last twelve months.
- Tax facilities for individuals active in the agricultural, construction or food industries are limited to RON 10,000 per month (lowered from RON 30,000).

b. Changes entering into force on 1 January 2023

➤ **Micro-enterprise income tax**

- The income tax on micro-enterprises becomes optional (under the former provisions all newly established companies had the obligation to register as micro-enterprises paying income tax)
- The following conditions must be met cumulatively by the company in order to qualify as a micro-enterprise:
 - the generated revenue, other than from consultancy and/or management activities, should be more than 80% of the total revenue;
 - the generated revenue should not exceed the RON equivalent of Euro 500,000. The exchange rate for determining the value in euro equivalent shall be the rate at the end of the financial year in which the respective revenue was recorded;
 - it has at least one employee;
 - it has associates/shareholders holding more than 25% of the value/number of participation titles or voting rights in up to three Romanian legal entities, which fall within the scope of applying the micro-enterprise tax system;

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- the share capital is held by persons other than the state and administrative-territorial units;
 - it is not in dissolution, followed by liquidation, registered in the Trade Register or at the courts of law, according to the law.
- New categories of Romanian legal entities that cannot apply the micro-enterprise regime are introduced:
- Romanian legal entities carrying out activities in the banking field;
 - Romanian legal entities carrying out activities in the fields of insurance and reinsurance, and on capital markets, including entities that carry out intermediation activities in these fields;
 - Romanian legal entities carrying out activities in the field of gambling;
 - Romanian legal entities carrying out activities of exploration, development, exploitation of oil and natural gas deposits.
- **The specific tax (applicable in the HORECA sector) will be repealed**
- Romanian legal entities that carry out activities corresponding to CAEN codes for HORECA (namely CAEN 5510, 5520, 5530, 5590, 5610, 5621, 5629, 5630) can chose between the payment of micro-enterprise income tax (without having to meet the above-mentioned conditions) or for the payment of corporate income tax.
- **Corporate income tax**
- The facility regarding the tax exemption of the reinvested profit is also extended for investments in assets used in production and processing activities, as well as in assets used for the re-technology process.
- Income from dividends sourced from legal entities established in EU Member States are non-taxable for microenterprise tax purposes if certain conditions are fulfilled.
- **Dividend tax**
- The dividend tax will increase from 5% to 8%.
- **Value added tax**
- The VAT rate applicable for accommodation services, restaurant and catering services will increase from 5% to 9%.

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- The VAT rate applicable to beverages with a high sugar content and other sweeteners or flavours, destined for both human and animal consumption will increase to 19%.
- The VAT rate applicable for chemical and non-chemical fertilizers and pesticides used in the agricultural sector will be 9%
- The 5% VAT reduced quota is applicable to housing with a usable surface of maximum 120 square metres, whose value does not exceed RON 600,000, including the value of the land which it is built upon and excluding the VAT, acquired by individuals, alone or together with another individual.

➤ **Income tax and social contributions**

- Employees
 - Employee income from seasonal activities is no longer exempted from personal income tax.
 - There are several changes to the system for granting personal deductions for employee income. A new additional threshold of 33% of the gross salary corresponding to the job held will apply to certain non-taxable salary benefits (additional benefits received under the mobility clause, food granted by employers to employees in certain circumstances, the rent expense incurred by the employer and the accommodation made available by the employer for employees in certain conditions, the costs for tourist and treatment services, the contributions to the facultative pension scheme, the voluntary health insurance premiums and medical subscriptions, and the amounts granted to employees carrying out their activities under the telework regime).
 - Social contributions owed by individuals under individual labour contracts cannot be lower than the social contributions that would be due on the minimum gross salary. Certain exemptions will apply, such as the case where individuals derive during the same month income from salaries or assimilated to salaries under two or more individual labour contracts and the aggregated monthly basis is at least equal to the minimum gross salary.
- Other income taxes
 - The threshold for applying the taxation based on net income is lowered to EUR 25,000 (from EUR 100,000).
 - The 40% deduction from the gross rental income received has been eliminated for the purpose of determining the taxable base.
 - The level of taxation of gambling income is modified: between 3% and 40% depending on the income threshold obtained.
 - The RON 450,000 exemption threshold for taxing real estate transaction income has been repealed.

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➤ Local taxes

- A quota of at least 0.1% (for residential buildings) and at least 0.5% (for non-residential buildings) will be applied to the value of the building (the previous regulation provided for a quota of 0.08% - 0.2% for residential buildings, and 0.2%-1.3% for non-residential buildings, applied to the taxable value of the building).
- For buildings used for agricultural activities, the building tax is calculated by applying a rate of 0.4% on the value of the building.

Should you need more information on the changes mentioned above, please do not hesitate to contact us.

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