

Tax alert

January 9th, 2018



Summary:

- **The implementation of the split VAT system: legal changes starting with January 1st, 2018** (Law no. 275/27.12.2017 for the approval of the Cabinet Order no. 23/2017 regarding the split payment of VAT)
- **Changes regarding the salaries and the due contributions starting with January 1st, 2018**
 - ✓ The gross average salary used for the foundation of the insurance budget for 2018
 - ✓ The terms of transmittal in the Revisal of the changes to the elements of the individual employment agreements
 - ✓ Changes regarding the leaves and the allowances for social health insurance
 - ✓ The minimal amount of the child bearing allowance in 2018
 - ✓ The contribution for social health insurance (CASS) from January 1st, 2018

ECOVIS Romania: Financial Audit Services

Esteemed Client,

The Official Monitory no. 1036/December 28th, 2017 has published the **Law no. 275/ December 27th, 2017 for the approval of the Cabinet Order no. 23/2017 regarding the split vat payment**. The bill, valid from January 1st, 2018, changes the stipulations published in August 2017 regarding the split VAT system.

Thus, starting with January 1st, 2018:

The taxable persons registered for VAT that are in at least one of the following categories **must open a VAT account**:

- ***At December 31st, 2017, they register overdue debts for VAT unpaid until January 31st, 2018, overcoming the following thresholds:***
 - ⇒ Big tax-payers: 15.000 lei;
 - ⇒ Mid-sized tax-payers: 10.000 lei;
 - ⇒ Other tax-payers: 5.000 lei.

- ***Starting with January 1st, 2018 they register overdue VAT debts unpaid for 60 business days from the due date, overcoming the following thresholds:***
 - ⇒ Big tax-payers: 15.000 lei;
 - ⇒ Mid-sized tax-payers: 10.000 lei;
 - ⇒ Other tax-payers: 5.000 lei.

- ***They are in insolvency.***

- ***They opt for applying the system.***

The exercise of the system is made since the date of registration by the ANAF with the register of the persons applying split VAT, register published on the website of ANAF: <https://www.anaf.ro/RegPlataDefalcataTVA/>. The registration is made by ANAF as following:

- ◇ Those registering overdue VAT debts on December 31st, 2017 above the mentioned thresholds are registered from March 1st, 2018 if they do not pay the overdue debts before January 31st, 2018;
- ◇ Those registering overdue VAT debts after January 1st, 2018 above the above-mentioned thresholds are registered with the first day of the second month following the maturity of the term of 60 days since the due date, if the debts are not paid in maximum 60 days after the due term;

ECOVIS Romania: Rent a CFO Services

- ◇ Those in insolvency at December 31st, 2017 are registered starting with March 1st, 2018;
- ◇ Those in insolvency after January 1st, 2018 have the obligation of notifying ANAF before the date of 1st of the month following the insolvency, and they will be registered in maximum 3 days after the date of the notification; if the notification is not registered, ANAF will register ex officio when it sees that the taxable person is insolvent;
- ◇ Those opting for the system are registered in a term of 3 office days since the registration of the option notification.



The transactions the system is not applied to are the following:

- ◆ Payments that are not made directly by the client to the supplier (ex.: payment on behalf of client, cash on delivery, etc.);
- ◆ Payments made in kind;
- ◆ Payments made through compensation;
- ◆ Payments in cash and using cash substitutes;
- ◆ Payments with bank cards;
- ◆ Amounts transferred to the deposit accounts at supplier's disposal;
- ◆ Financing granted by non-banking credit and financial institutions through taking over the debts.

ECOVIS Romania: File Drafting and Assistance for Transfer Pricing

The procedure for conducting the payments between client and supplier

Supplier	Client	Procedure
It applies split VAT	VAT payer, it does not apply the split TVA	The payment is split: The base from the current account of the client to the current account of the supplier VAT from the current account of the client to the VAT account of the supplier
It applies the split TVA	VAT payer, it applies split TVA	The payment is split: The base from the current account of the client to the current account of the supplier VAT from the VAT account of the client to the VAT account of the supplier
It applies the split TVA	Not a VAT payer	The integral payment is made from the current account of the client to the current account of the supplier
It does not apply the split TVA	VAT payer, it applies split TVA	The payment is split: The base from the current account of the client to the current account of the supplier VAT from the VAT account of the client to the current account of the supplier
It does not apply the split TVA	VAT payer, it does not apply the split VAT	The integral payment is made from the current bank account of the client to the current bank account of the supplier

ECOVIS Romania: Tax Consulting

The term for transferring/depositing in the own VAT account was increased at 30 office days since the receiving of the counter value of the delivery of goods/services.

If the clients will not pay the tax in the VAT account of the supplier applying the system, the supplier will have the right to transfer/deposit the tax in its own VAT account and thus the clients will not be sanctioned for not paying the tax in the VAT account of the supplier. If the clients will not pay the tax in the VAT account of the supplier in 30 office days term since the date of the erroneous payment, and the supplier will not transfer/deposit the tax in its own VAT account in the same term, the beneficiaries (the supplier collecting the amount) will be sanctioned with 0,06% per day of the VAT value.

Changes regarding the salaries and the due contributions

The minimal gross national salary guaranteed for payment starting with January 2018 – The Cabinet Decision no. 846 or November 29th 2017

Starting with **January 1st, 2018**, the minimal basic gross national salary guaranteed for payment, amount established in money, which does not include increases and other supplements, is established at **1.900 lei per month**.

The establishing of basic salaries below the level of **1.900 lei** for the staff employed through an individual employment agreement represents a contravention and it is sanctioned with a **fine between 300 lei – 2.000 lei** for each individual employment agreement mentioning a minimal salary below the above mentioned amount.

The average gross salary used for the foundation of the insurance budget for the year 2018

The gross average salary used for foundation of the social national insurance budget for the year 2018 is of **4.162 lei**.

Starting with **01.01.2018** the decease aid is established, pursuant to the law, for:

- a) the insured person or the retired person at **4.162 lei**;
- b) a family member of the insured person or of the retired person at **2.081 lei**.

Pursuant to the legal changes, this financial aid is no longer granted to the employees by the employer, as it used to be until now, but directly by the pension chambers.

ECOVIS Romania: Payroll & HR Services

The terms for the transmittal in the Revisal by the employers of the changes applied to the elements of the individual employment agreements

The Cabinet Decision no. 905/14.12.2017 regarding the ledger of employee's records, published in the Official Monitor no. 1005/19.12.2017, brings the following substantial changes regarding the reporting in the Revisal of the changes of the elements of the individual employment agreements:

1. Any modification regarding **the monthly gross salary, the allowances, increases, and other additions**, as they are stipulated in the individual employment agreement or in the collective employment agreement (if applicable), is to be transmitted into the ledger in a term of **20 office days since the date of the occurrence of the modification**.

As an exception to this rule, any change occurred between December 19th, 2017 – March 31st, 2018 will be transmitted in the general ledger of employee's records before March 31st, 2018.

If the employers do not transmit the changes to the salary in the announced term, this represents a contravention and it is sanctioned with a fine between 5.000 lei – 8.000 lei.

Other changes:

- **The period, suspension causes and the date of getting back to work** (with the exception of unaccountable absences and of suspension cases on the basis of the medical leaves certificates) will be transmitted into the Revisal **at the latest in the day prior** to the date of suspension / getting back to work;
- It is introduced a separate term of **3 office days** since the date of suspension for the **unaccountable absence**;
- The change regarding **the salary** can be transmitted in a term of **20 office days** since the date of the modification, pursuant to point 1 above;
- The change regarding **the employment position, the employment agreement type, work load, duration of the employment agreement** will be transmitted into the Revisal **at least one day prior to the modification** (as currently used);
- **The change of the identification data of the employer and / of the employees** must be transmitted in a **3 office days term since the date of the modification**;
- It is introduced a term for the declaration into the Revisal of **5 office days** since the date of the **transfer/accepting through transfer of an employee**.

If the above-mentioned changes are not transmitted in the due term, the sanction is a fine between 5.000 lei - 8.000 de lei.

ECOVIS Romania: Financial Accounting Services

Changes regarding the leaves and the allowances for social health insurance

The Official Monitory no. 1005/19.12.2017 has published OUG 99/14.12.2017 for the modification and the addition of the OUG no. 158/2005 regarding the leaves and the social health insurance allowances, stipulating that starting with January 1st, 2018 it was eliminated the contribution for leaves and social health contributions owed by the employers. With the same date it was introduced **the insuring contribution for work**. **The right of the employees to benefit of leaves and of the social health contributions allowances is conditioned by the payment of the insuring contributions for work.**

The Ordinance generates the next modifications as well, starting with the incomes due to the month of January 2018:

- 1. It is modified the required contribution stage in order to benefit of leaves and allowances, from 22 days to 6 month in the last 12 month prior to the month the sick leave is granted for;**
2. The basis of calculus of the allowances will be the sum of the monthly gross incomes of the last 6 month of those 12 month representing the stage, capped at 12 minimal salaries;
3. Natural persons can be insured with the public system on the basis of an insurance contract for leaves and allowances, through the payment of a percentage of 1% applied to the chosen monthly income registered in the insurance contract, between 1 (one) - 12 (twelve) minimal salaries.
4. The sick leave certificates can be issued electronically.

The minimum amount of the child bearing allowance in 2018

The Emergency Ordinance no. 111/2010 regarding the maternity leave and the monthly allowance for child bearing was changed through the OUG no. 82/2017 as it follows:

Starting with the rights of the month of January 2018, the minimum amount of the monthly allowance cannot be lesser than **1.250 lei** (amount resulted from applying of a multiplying coefficient of 2.5 to the value of the reference social indicator - 500 lei).

There are **still valid** the stipulations that:

- 1) The amount of the monthly allowance is of 85% of the average net incomes derived in the last 12 month of the last 2 years prior to the birth of the child;
- 2) The maximum amount of ICC cannot surpass 8.500 lei.

Twins, triplets, or multiplets: the amount of the monthly allowance is increased with 1.250 lei for each child born from a multiple pregnancy, starting with the second child born from such a birth.

ECOVIS Romania: Certification of Financial Situations Services

The social health insurance contribution (CASS) from January 1st, 2018

The individuals deriving:

- a) incomes from independent activities;
- b) incomes from the association with a legal person;
- c) incomes from goods assignation;
- d) incomes from investments ;
- e) incomes from farming, forestry and fish farming;
- f) incomes from other sources.

owe the social health contribution if they derive cumulated annual incomes at least equal with **12 minimal basic gross national salaries from one or more income sources from the categories above.**

The monthly calculus basis for the contribution owed by the above-mentioned natural persons is **the minimal gross national salary valid for the month it is owed for.**

For the year 2018, if the person deriving incomes from salaries obtains also annual incomes from dividends at least equal with 12 minimal gross national basic salary, he or she owes the contribution for health social insurance for these incomes as well.

Stating term:

The above-mentioned natural persons that must pay the social insurance contribution will register each year at the competent tax authority, **until January 31st (included)** of the year the social health insurance is established for, **the statement code 600** regarding the situation of the derived incomes under the monthly ceiling.

For the tax-payers that **start conducting activity or start deriving incomes during the fiscal year**, and the monthly assessed to be derived income from one or more income sources from those mentioned above is at least equal with the level of the minimal basic gross national salary valid for the month the incomes are assessed for, **the statement code 600 is registered in a 30 days term since the date of the occurrence of the event.**

The social health insurance contribution owed by the natural persons mentioned above is **determined** by the competent tax authority through **the taxation decision on the basis of statement 600.** The calculus basis for the social insurance contribution is expressed monthly, and the payment is made quarterly, in 4 equal installments, until the date of 25 included of the month of each quarter. The social health insurance contribution established through the taxation decision is calculated through applying the 10% contribution quota to the minimal gross basic national salary valid for the month it is owed for.

ECOVIS Romania: Strategic Management Consulting

Attention! The persons that during 2017 have derived incomes from independent activities, incomes from the association with a legal person, incomes from assignment of goods, incomes from investments (**dividends**), incomes from farming activities, forestry and fish farming, or incomes from other sources, overcoming **the ceiling of 22800 lei** (12 month * 1900 lei) must register to ANAF before January 31st, 2018 the statement 600. The CASS contribution for 2018 will be in a fix value of 2280 lei, paid in 4 quarterly installments. If after the adding up of the incomes from the above-mentioned activities derived in 2017, the resulted amount is under the minimal ceiling there is no obligation to register the statement 600 and CASS is not paid for 2018.



The information presented above is expressed for your information only and it cannot be and it should not be considered as tax consulting. In order to assess the impact of the tax changes for your company, we kindly invite you to contact our senior team members and to schedule an appointment for clarifying all aspects related to these changes.

We are looking forward to all the questions you might want to address to us!

With high consideration,

The ECOVIS Romania team

ECOVIS Romania: One Stop Shop

Accounting

- Financial Accounting;
- Preparing & registering tax statements for legal and natural persons, both Romanian and foreign;
- Harmonizing the national financial accounting with the accounting norms of the parent-company;
- Preparing and certifying the annual financial situations;

Audit

- Financial audit according to ISA;
- Restatement of financial statements prepared according to national regulations, to International Financial Reporting Standards (IAS/IFRS) or Reporting Standards specific to the Client (GAAP);
- Financial audit required by the group's policy;
- Internal audit;
- Audit missions such as: agreed procedures (ISA 4.400), revisions (ISA 2.400), due diligence;

Payroll & HR

- Payroll services;
- Managing, auditing and registering the personnel files according to legal bindings and to the company's regulations;
- Preparing the job descriptions and of the Internal Order Regulation specific to Client's activity;
- Interface with banking applications and performing of salary payment transactions;
- Staff appraisal and selection for accounting/HR departments;

Consulting

- Tax consulting
- Assistance for drafting the **transfer pricing file**;
- Consulting for M&A, company restructuring;
- Assistance in implementing IT solutions regarding: financial and management accounting, employees' records, payroll, management reports, etc.;
- Tax registration of various entities and VAT payer registration;
- Tailored information regarding significant law.

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