

Tax Alert

January 22nd, 2019



Summary:

- **Changes regarding the financial discipline of the collection & payment operations starting with January 1st, 2019**
- **The taxation of the transactions with cryptocurrencies**
- **Changes regarding the delivery of the social houses with a 5% VAT ratio**
- **ANAF introduces new conditions for sponsorship**
- **VAT adjustment at client's bankruptcy**
- **The classification of the tax-payers according to the fiscal risk**
- **Cultural vouchers**
- **Changes regarding the Sole Statement**
- **Changes regarding the expenses with per-diem**

ECOVIS Romania: Financial Audit Services

Esteemed Partner,

We would like to inform you about the following legal changes in Romania:

- ✓ The text of the **Law no. 70/2015 for the consolidation of the financial discipline regarding the collection & payment operations** was changed and added, as well as the Emergency Order of the Cabinet no. **193/2002** regarding the introduction of the modern payment systems: for the operations performed through remote payment instruments (internet/home/mobile banking), legal persons, authorized individuals, individual enterprises, family enterprises, free-lancers, natural persons conducting independent activities, associations and other entities with or without legal personality may transfer amounts from their own bank account **to the bank account of the natural persons, under the condition of possessing the justifying legal documentation for the payment evidence. More clearly, every payment towards a natural person must be documented and justified, even if it is made through bank transfer!**

The non-compliance with this provision represents a contravention and it is sanctioned with a **fine between 3.000 lei – 4.500 lei**.

We remind you that starting with July 15th, 2018 the Romanian law allows **the quarterly distribution of dividends** due to the current year. The quarterly distribution of dividends will be made in the limit of the net accounting profit derived by quarter, plus potential reported profits and amounts withdrawn from reserves available to this purpose. For the quarterly distribution of dividends **interim financial situations must be prepared**, and the **patrimony inventory procedure** is applied.

- ✓ It was published the **Law no.13/January 10th, 2019 for the approval of the Emergency Order of the Cabinet no. 25/2018**. We mention the following from the tax elements approached by this law:

- **The adoption of a taxation procedure for the incomes derived by natural persons from transactions with electronic currencies (cryptocurrencies)**. The earning (incomes minus expenses) is taxed with 10%, as being assimilated with the tax on incomes from other sources. The natural person deriving such incomes will register a sole statement regarding the income tax and social insurance. An exemption is granted: if the value of the earning is lesser than 200 lei/transaction the amounts are not taxed under the condition that the cumulated value per year of the incomes does not overcome the ceiling of 600 lei.

- **The 5% VAT ratio for the delivery of social houses is maintained, even if the principle of social house is modified.**

ECOVIS Romania: HR & Payroll Services

Important: The condition that the land must have a surface of less of 250 square meters is cancelled, as well as the condition of possessing only one house bought with a 5% VAT ratio by the same buyer (a natural person or a family). In practice, as long as the two conditions are met (the surface – 120 square meters, and price – 450.000 lei), a buyer natural person or family may own one or more houses bought with a 5% VAT.

- The tax regimen of sponsorship is changed

The companies paying the profit tax may act as sponsors while observing the conditions stipulated by the Sponsorship Law. These sponsorships reduce the payable profit tax with a percentage of 5% of the turnover, without overcoming 20% of the profit tax, and the expenses with the sponsorships are not deductible at the calculation of the profit tax.

Similarly, the microenterprises may act as sponsors, thus reducing the tax on microenterprise income with a percentage of 20%. **The fiscal change is represented by the cancellation of the condition that the beneficiary of the sponsorship must be an authorized entity with at least one licensed social service. In order for the tax facilities to be applicable, a new condition is introduced:** the organization without patrimony purposes or the cult entity must be registered with a **Registry of the beneficiaries of sponsorships, held by ANAF**. This registry is public.

The registration with the Registry of entities/cult entities the fiscal deduction is granted for is made upon the request of the entity, if the following conditions are all met simultaneously:

- a) it conducts business in the main activity domain declared at company set-up, on the basis of the self-responsibility statement;
- b) it has fulfilled all its tax stating duties as required by the law;
- c) it does not register overdue tax duties to the national budget, older than 90 days;
- d) it has filled the annual financial situations, as required by the law;
- e) it was not declared as inactive, pursuant to art. 92 of the Fiscal Procedure Code.

The natural persons deriving incomes from salaries, incomes from independent activities, incomes from pensions for which income tax is owed, may direct to the entities without patrimony purpose a percentage of 3,5% from the income tax, under the condition that the beneficiary is registered with the above-mentioned registry.

This modification regarding the sponsorship applies from April 1st, 2019.

ECOVIS Romania: Transfer Pricing File – Preparing & Updating

- VAT adjustment for the losses from debts generated by client's bankruptcy

The adjustment of VAT for the losses from debts generated by the client's bankruptcy or by the approval of a reorganization plan pursuant to the insolvency procedure is allowed since the date of the pronouncement of the court of law for the reorganization or for the closure of the bankruptcy. The adjustment is made in a term of maximum 5 years since the date of January 1st of the year following the year when the pronouncement of the decision was made. If the filing for bankruptcy was made before January 1st, 2019 and there is no sentence from a court of law, the VAT adjustment is permitted in a term of 5 years, starting with January 1st, 2019. From the procedural standpoint, once the VAT adjustment is made for a lost debt due to a previous period, the tax authority is allowed to inspect that period.

- Classification of the fiscal risk

For the fiscal debts administrated by the national tax authority, the administration procedures are applied pursuant to the class/subclass of fiscal risk. The tax-payers are classified according to the fiscal risk category: low fiscal risk, medium fiscal risk, and high fiscal risk.

The general criteria generating the class/subclass of the fiscal risk are the following:

- a) criteria regarding the tax registration;
- b) criteria regarding the registration of tax statements;
- c) criteria regarding the stating level;
- d) criteria regarding the fulfillment of the payment duties to the national budget and to other creditors.

The approval of the actual classification procedures will be made in 90 days after the publication of the law. A mediation procedure is introduced. Before the forced execution of the tax-payer, the budgetary debtor may apply for the mediation procedure in a 15 days term since the receiving of the payment formal notice. The tax authority must organize the mediation procedure in a term of maximum 10 days since the receiving of the tax-payer's notification. The appropriate actions will be followed after the mediation.

- The inclusion of the cultural tickets in the category of social expenses limited deductible from the fiscal standpoint.

The cultural tickets were introduced from 01.01.2019 through the Law 165/2018 regarding the granting of the value tickets. These are value tickets given to the employees monthly or occasionally, for the payment of cultural goods and services. The cultural goods and services could be: subscriptions or tickets for live performances, concerts, cinema projections, entrance at museums, festivals, fairs and exhibitions, theme parks, including the kid-themed parks, books, textbooks, music albums, movies, regardless of their format.

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The maximum level of the amounts granted as cultural tickets cannot overcome 150 lei for the tickets granted monthly or 300 lei/event, for those granted occasionally. The nominal value of a cultural ticket is of 10 lei or a multiple of 10, but no more than 50 lei.

Pursuant to the stipulations of the Fiscal Code, the social expenses are deductible in the limit of a quota of up to 5% applied to the value of the expenses with the staff salaries.

- ✓ ANAF Order no. 49/2019 for the approval of the form, the content, the registration ways and of the processing of the form „Sole Statement regarding the income tax and social contributions owed by natural persons“.

The registration term of the statement

The statement is registered until March 15th, 2019, included, by the natural persons who bear the obligation of:

- the stating of the tax on income derived in Romania and/or abroad during the year 2018;
- the stating of the tax on the estimated income / income norm to be derived in Romania during the year 2019;
- the stating of the estimated income for the classification as a payer of social contributions for the year 2019 and, if applicable, of the stating of the social contributions owed during the fiscal year 2018.

The statement is registered in a 30 days term since the date of the occurrence of the event, for the tax-payers starting a activity during the fiscal year and for those deriving incomes from assignation of goods from personal patrimony, other than the incomes from land lease, for whom the taxation is final and who did not have until now the obligation of registering the Sole Statement.

Starting this year the Sole Statement is registered only electronically:

- through the service of „Private Virtual Space“ (SPV);
- through the website e-guvernare.ro, using the qualified electronic signature.

The registration of the statement as a paper copy at the public desks of the tax authority is not accepted!

New entries

The tax authority has integrated a series of new entries in the Sole Statement, in comparison with the previous form. The main changes are mainly:

- The inclusion of the rows necessary for the determination by the tax-payers of the income tax and of the social contributions owed for the year 2018;
- The inclusion of a section for the stating of the tax on incomes from gambling, derived by the participation at remote gambling & poker festivals, derived between January 1st – March 22nd 2018, included;

ECOVIS Romania: Financial Accounting

- the modification of the section regarding the destination of an amount from the tax owed for the net income /the annual net taxable earning, for the support of the non-profit entities / cult entities or for granting private scholarships, because the Emergency Cabinet Order no.25/2018 has introduced the possibility of directing the amount representing 3,5% of the annual tax for the support of the non-profit entities / cult entities who are accredited providers of social services with at least one licensed social service, pursuant to the law;
 - the inclusion of a section with a view to determine the annual taxable net income and the tax owed for the year 2018, for the incomes derived from independent activities and from intellectual property rights, taxed in the real system, the inclusion of a section helping the tax-payers for determining the amount to be paid.
- ✓ The **Cabinet Decision no. 714/2018 established the value of 20 lei/day for the per-diem** granted to the staff of public authorities and institutions for the duration of delegation and dispatching in another city starting with January 1st, 2019.

In consequence, pursuant to the stipulations of the Fiscal Code, **starting with January 1st, 2019 the not taxable per-diem for domestic travel will be of 50 lei/day (20 lei x 2,5).**

We would like to remind you that the per-diem overcoming by 2,5 times the legal ceiling determined for the employees of the public institutions:

- is subject to the salary tax;
 - is included in the monthly calculation basis for the mandatory social contributions;
- regardless of the paying entity (profit tax payer, payer of the microenterprises tax, authorized individual, individual enterprise, NGO).

Important notice: 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 professionals 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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