

Tax Alert

March 30th, 2020



Summary:

- **Emergency Order (OUG) 32/30.03.2020** — regarding the change and the addition of the Cabinet OUG no. 30/2020 for the modification and addition of some regulatory documents, as well as for the establishing of proceedings for social protection on the background of the SARS-COV-2 epidemic and for the introduction of additional measure for social protection;
- **OUG 33/21.03.2020** — regarding some economic, tax & budget proceedings
 - ✓ Bonus for the payment of the profit tax (CIT) and of the microenterprise tax;
 - ✓ The certificate for emergency situations.
- **O.U.G. 37/2020** regarding the granting of facilities for the loans from credit institutions and non-bank financial institutions to specific categories of debtors

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The **Emergency Order no. 32/2020** (30.03.2020) regarding the change and the addition of the OUG no. 30/2020 for the modification and the addition of a series of regulatory documents, as well as for the introduction of some proceedings for social on the background of the SARS-COV-2 epidemic and for the introduction of additional measures for social protection — published by the O.M. no. 260 of 30.03.2020.

Stipulations applicable to employers — incomes from salaries:

- ⇒ it is cancelled the requesting of handing over for the state of emergency certificate applicable in special conditions. Thus, by the **technical unemployment** paid by the government in amount of 75% of the basic salary due to the job position held, but no more than 75% of the average gross salary income mentioned by the Law of the national social insurances budget for 2020 no. 6/2020, **benefit the employees of the employers who reduce or interrupt activity totally or partially as a consequence of the effects of the SARS- CoV-2 epidemic, during the instituted state of emergency, pursuant to a self-responsibility statement from the employer;**
- ⇒ the unemployment allowance might be supplemented by the employer with amounts representing the difference of up to at least 75% of the basic salary due to the job position held by the employee.
- ⇒ **the employee with more than one employment contract, from which at least one is still active during the state of emergency does not benefit from the technical unemployment;**
- ⇒ If one employee has more than one individual employment agreements and **all are suspended following the institution of the state of emergency** he or she will benefit from the unemployment allowance corresponding to the most advantageous salary rights (the contract with the biggest amount);
- ⇒ During the suspension of the activity of the employees, even if the employer does not owe the insuring contribution for work tax, the period it is considered length of service even without the payment of the contribution to the system of the health social insurances and for the allowances for social health insurances. For the determining and the calculation of the social health insurances allowances, the gross minimum basic salary guaranteed for payment is to be utilized (2.230 lei).

Documents necessary for the granting of the technical unemployment allowance:

- Application signed and dated by the legal representative of the employer;
- Self-responsibility statement of the legal representative of the employer (regarding the correctness and the true character of the data);
- The list of the persons who will benefit from the allowance, assumed by the legal representative of the employer, pursuant to the model that will be approved through an Order and published as such by the Official Monitor.

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- ⇒ **The payment term of the allowances from AMOFM to the bank accounts of the employers is reduced to maximum 15 days after the date of the submitting of the documents.**
- ⇒ **The payment of the allowance by the employers to the employees will be made in maximum 3 work days after the receiving of the amounts from AMOFM.**

Provisions applicable to other professionals – incomes from independent activities

PFA / II / IF / liberal professions / those with author rights who interrupt activity as a consequence of the effects of the SARS-CoV-2 epidemic, during the state of emergency benefit, from the national budget, of a monthly allowance of 75% of the national gross average salary valid for the year 2020 (5.429 lei *75% = 4.072 lei) based on the documents requested by the National Agency for Payments and Social Inspection, respectively: application; a duplicate of the ID; self-responsibility statement.

The template for the application and for the self-responsibility statement are determined through a common order of the minister for Employment and Social Protection and the minister of Public Finance.

The deadline for the registration of the documents:

The application and the documents are submitted before the 10th of the current month for the payment of the allowance due to the previous month, through e-mail.

The payment of the allowance will be made:

- By the County Agencies for Payments and Social Inspection, named hereinafter territorial agencies, to the bank accounts opened by the beneficiaries at the bank units.

Fiscal treatment:

The allowance is subject to the taxation and to the payment of the social insurances contributions, of health social insurances contribution pursuant to the legal provisions applicable, and they are determined through a joint order of the minister of the Employment and Social Protection and of the minister of Public Finance.

The persons receiving the payment of the insertion incentive provisioned by the OUG no. 111/2010 regarding the leave and the monthly allowance for childcare will submit through e-mail to the Agency for Payments and Social Inspection the justifying documents, as it follows:

- for the persons already receiving the payment of the rights, the copy of the document proving that they are under one of the situations mentioned by the OUG no. 30/2020;
- for the persons that will apply for the granting of this rights, the justifying documents, together with the copy of the document proving that they are under one of the situations mentioned by the OUG no. 30/2020.

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- During the technical unemployment (art. 52 par. 1 letter c) of the Employment Code) or if the work relations were ceased as a consequence of the institution of the state of emergency, the proving documents may be the certificate issued by the employer or the self-responsibility statement from the person that they are under one of these situations. If the person submits the self-responsibility statement, the County Agency for Payments and Social Inspection, respectively the Bucharest similar Agency, checks in the general ledger of the employees the trustworthy character of the data declared.

The provisions of the **Law no. 19/2020 regarding the granting of days off to parents for childcare, if the education units are temporarily closed down, are changed** as it follows:

The allowance for each day off in amount of 75% of the basic salary corresponding to one work day, but no more than the daily correspondent of 75% of the gross average salary income used for establishing the budget of the national social insurances which was subject only to the income tax and to the payment of the social insurances contribution is now subject to **the payment of the social health insurances contribution, as well as to the payment of the insuring contribution for work.**

The taxes and the social insurances contributions, the social health insurances contributions, as well as the payment of the insuring contribution for work due to the allowance are paid by the employer.

The preschool education units (nursery schools, kindergartens), similarly with the other education units, suspend activity during the period of the state of emergency instituted through the Decree no. 195/2020.

Parents with children enrolled to the preschool education units benefits from the rights stipulated by the Law no. 19/2020.

Changes regarding the **Law 76/2002 regarding the unemployment insurances system and the stimulation of the employment of the workforce**

During the state of emergency, the obligation of the persons benefitting from the unemployment allowance to come in person each month, as scheduled or at any moment they are summoned, to the Agency for the Employment of the Workforce which has them into evidence, for being assisted for employment, is not applicable.

If no employment is made, the renewal by the unemployed who do not benefit from the unemployment allowance, under the conditions mentioned by the Law no. 76/2002, of the application for being taken into record for mediation is submitted in a term of 30 calendar days after the state of emergency is lifted.

During the state of emergency instituted through the Decree no. 195/2020 regarding the institution of the state of emergency on the territory of Romania, the applications and the justifying documents for the solicitation of the social insurances and unemployment rights are submitted through the e-mail.

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The suspension of the foreclosures

During the period of the state of emergency instituted through the Decree no. 195/2020, through the effect of the law, there are suspended or not started the procedures of retrieving of debts and foreclosure, for all the social assistance rights. There are suspended or not started the foreclosure proceedings through the garnishment of the budgetary, fiscal and commercial debts applicable to the monthly rights paid through the territorial pensions chambers. The proceeding of suspension of the foreclosure through the garnishment to the amounts paid by the territorial pension chambers are applied, by the effect of the law, by these institutions without other formalities from the beneficiaries of these rights. The suspension proceedings will be cancelled in a 60 days term after the lifting of the state of emergency.

The amounts withheld in April 2020 are reimbursed together with the payment of the rights due to the month of May 2020, and they will be recovered after 60 days after the state of emergency will be lifted.

Emergency Order 33/2020 (30.03.2020) – regarding some economy and tax & budget proceedings — published in the M.O. no. 260 of 30.03.2020

A. Profit Tax

The tax-payers who pay the profit tax (CIT), regardless of the declaring and payment system, who are paying the tax owed for the Q1 of the year 2020, respectively for the payment in advance due to the same quarter before the due date of April 25th, 2020, included, **benefit from a bonus calculated from the owed profit tax, as it follows:**

a) **5% for big tax-payers** as defined by the Order of the President of the National Tax Administration Agency no. 3.609/2016 regarding the organization of the activity of administration of big tax-payers;

b) **10% for mid-sized tax-payers** as defined by the Order of the President of the National Tax Administration Agency no. 3.610/2016 regarding the organization of the activity of administration of mid-sized tax-payers, with the subsequent changes;

c) **10% for the tax-payers that do not belong to one of the categories above**

The same bonus is applicable to the tax-payers who apply the system of declaring and paying annually the profit tax, with anticipated payments made by quarter. These tax-payers benefit from the bonus mentioned above if they pay the owed tax for the quarter/quarterly payment in advance until the due date included in the period April 25th – June 25th, 2020.

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The provisions of par. (A) are conformably applicable by the tax-payers that are under the incidence of the Law no. 170/2016 regarding the tax specific to some activities (CAEN: 5510 – "Hotels and other similar accommodation facilities", 5520 – "Accommodation facilities for holidays and short-stay periods", 5530 – "Trail parks, camping and camps", 5590 – "Other accommodation services", 5610 – "Restaurants", 5621 – "Food providing (catering) for events", 5629 – "Other food providing services n.c.a.", 5630 – "Bars and other activities of serving beverages") for the profit tax due to Q1/2020, determined for the activities provided, others than the CAEN codes stipulated by the law.

The tax-payers applying the provisions of art. (A) determine the payable profit tax through the subtraction from the owed tax of the bonus calculated pursuant to this article.

B. Tax on the incomes of the microenterprise

For the payment of the tax on the incomes of microenterprises due to Q1/2020, up to April 25th, 2020, included, the tax-payers benefit from a bonus of 10% calculated to the tax owed for that quarter. The tax on the incomes of microenterprises is determined through the subtraction from the owed tax of the 10% bonus.

C. VAT

It will not be made the actual payment for VAT at the customs authority by the taxable persons registered for VAT who import medication, protection gear, other medical devices or equipment, and sanitary material which can be used for the prevention, limitation, treating and control of CO-VID-19, stipulated in the Appendix which is an integral part of this Emergency Order. This measure is applicable during the period when the state of emergency was instituted, pursuant to Decree no. 195/2020 and for the next 30 calendar days after the date of the lifting of the state of emergency.

D. CERTIFICATE OF THE STATE OF EMERGENCY

Through the certificate of the state of emergency, issued pursuant to the methodology approved through an order of the minister of the Economy, Energy and Business Environment, **it is certified**, based on the self-responsibility statements, **the decrease of incomes or of collection with at least 25%** in March 2020 in comparison to the average of the months of January and February 2020 or the interruption – partial or total – of activity as an effect of the decision adopted by the competent public authorities for the period of the state of emergency instituted.

Even if this certificate **is no more necessary for the granting of the technical unemployment allowance**, it can be used for the facilitation of the renegotiating of contracts under execution (for example bank loans, leasing agreements, services or utilities providing contracts), or it will justify other potential benefits granted by the government (such as the loans guaranteed by the government with subsidized interest) and for the suspension of the payment of the monthly instalments, interests and charges due to the bank loans contracts.

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O.U.G. 37/2020 regarding the granting of facilities for the loans granted by credit institutions and non-bank financial institutions to specific categories of debtors – published in The Official Monitor no. 261 of 30.03.2020.

In the understanding of this Emergency Order, the terms and the expressions below bear the following meanings:

Creditors – credit institutions defined pursuant to the Cabinet Emergency Order no. 99/2006 regarding the credit institutions and the adaptable capital, approved with changes and additions through the Law no. 227/2007, with subsequent changes and additions, and non-bank financial institutions defined pursuant to the Law no. 93/2009 regarding the non-bank financial institutions, with subsequent changes and additions, as well as the branches of the credit institutions and of the non-bank financial institutions from abroad conducting activity on Romanian territory.

Debtors – natural persons, including authorized individuals, individual enterprises and family enterprises, which are function according to the Emergency Order of the Cabinet no. 44/2008 regarding the conducting of the business activities by the authorized individuals, individual enterprises and family enterprises, liberal professions and the professions exerted based on specific laws, regardless of the form of providing that profession, and legal persons (legal entities) which are parties in the credit contracts or respectively in the leasing agreements, with the exception of the credit institutions defined according to the Cabinet Emergency Order no. 99/2006.

The obligation to pay the due installments due to the loans, representing principal, interests and charges, granted to the debtors by the creditors until the date of coming into force of this Emergency Order, is suspended at the request of the debtor for up to 9 months, but no longer than the date of 31.12.2020.

The maximum lending period stipulated in the regulations of the creditors may be extended with a period equal to the duration of the suspension of the payment duty (maximum 9 months).

For natural persons debtors and who, by the extension of the maturity of the loan, will go beyond the age limit mentioned by the regulations of the creditors for the granting of the loan, the creditors will proceed to restructuring the loans, while keeping the above-mentioned obligation regarding the age limit.

The provisions of this Emergency Order are applicable to the debtors who have concluded a contract for obtaining **a loan which has not reached maturity yet and for which the creditor has not declared anticipated maturity**, prior to the coming into act of this Emergency Order.

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Conditions for the granting of the facility of suspending the payment of the installments, interests and charges:

– only for the credits which do not register overdue payments at the date of the institution of the state of emergency on the territory of Romania or the debtors paid these overdue duties before the date of the solicitation of the suspension of the payment obligation. At the same time, **debtors (except of natural persons)** must meet **cumulatively the following conditions**:

a) They interrupt activity totally or partially as a consequence of the decisions issued by the competent public authorities pursuant to the law, during the state of emergency instituted, and they own the **certificate of emergency situations** issued by the Ministry of Economy, Energy and Business Environment, which ascertains, based on the self-responsibility statements of the debtors, the diminution of the incomes or of the collection with at least 25% in March 2020 in comparison with the average for January and February 2020 or the partial or total interruption of activity as an effect of the decisions adopted by the competent public authorities during the state of emergency instituted;

b) They are not in insolvency situation at the date of the application for the suspension of the repayment of the credit, according to the information available on the webpage of the National Office of the Trade Register.

In order to benefit by the suspension of the payment of the installments, of interests and charges, the debtors send to creditors an application in this respect, through a letter or through e-mail, using the contact data mentioned in the loan agreement or through another distance communication channel provided by the creditor, **at the latest in 45 days after the coming into act of this Emergency Order**.

If the debtor cannot transmit the application through one of the channels mentioned, he or she can apply by phone, at a dedicated phone number announced by each creditor on its webpage. In such situations, the creditor has the obligation of recording the discussion.

The debtor may opt through the application transmitted to the creditor to suspend the payment obligation for the outstanding installments due to loans, representing principal, interest and charges, for a period between one month and nine months, but going no longer than the date of December 31st, 2020.

The creditor analyzes the application and accepts in under the conditions mentioned in the application norms of the current Emergency Order.

The extension of the contractual duration produces effects from the date of the communication of the suspension application addressed to the creditors for the applications approved by the creditors.

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The interest owed by debtors and due to the outstanding amounts whose payment is suspended are capitalized at the balance account of the credit at the end of the suspension period. The capital increased in this way will be paid by installements in the period remaining until the new maturity of credits, subsequent to the suspension period.

For the exertion of this Emergency Order, the Ministry of Public Finance prepares the application norms, which will be approved through a Cabinet Decision in a term of 15 days after the coming into act of this Emergency Order.

This info is a selection of some elements of new legislation, with a strictly informing purpose. It is not considered professional consulting and, in consequence, we do not assume any responsibility in this respect. For additional questions regarding the situations mentioned above, please do not hesitate to contact us.

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- 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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