

## Tax Alert



### Summary:

The Law no. 296/2020 for the modification and addition of the Law no. 227/2015 regarding the Fiscal Code

The Emergency Order no. 220/2020 regarding the practice of social protection measures after January 1st, 2021 under the conditions of the propagation of the Coronavirus SARS-CoV-2, as well as for the modification of other regulatory documents.

## ECOVIS Romania: HR & Payroll Services

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Esteemed Partners,

On December 21st, 2020 the Official Monitor published under the no. 1269 the Law 296/2020 for the modification and addition of the Law no. 227/2015 regarding the Fiscal Code.

The most important changes of the Fiscal Code fiscal—which are to be applied in stages starting with **January 1st, 2021**—are:

1. **The utilization of the transportation means with different purposes than the business activity is no longer considered salary kind incomes for the natural person for the companies paying micro-enterprise tax and for the companies paying the specific tax.**

2. **For the companies paying micro-enterprise tax, the incomes from dividends received from a Romanian legal person become non-taxable incomes.**

3. **An employer might reimburse tourism and/or treatment services for the employees or their family members, as it is mentioned by the employment agreement, without considering them as salary incomes, if the amount cumulated in a tax year does not overcome the level of one gross average salary income approved through the law of the budget of the social insurance (5.429 lei).**

4. **An employer might reimburse expenses with utilities (electricity, heating, water), Internet subscription, acquisitions of furniture or office gear paid by the employees for the tele-working at their tele-work place, under the limits determined by the employer through the employment agreement or the internal regulation, up to a maximum amount of 400 lei/month.**

This corresponds to all the business days of each month. If the employee works under the teleworking procedure for fewer days, the amount is reduced proportionally. **This amount is not considered an income from salary and it is not required from the employee to provide justifying documents.**

5. **It is not considered an income from salaries the reimbursement of costs for the testing and /or vaccination of employees for the prevention of the propagation of diseases endangering the public health and the health of the employees.**

## ECOVIS Romania: Transfer Pricing File

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6. The tax on the income derived by non-resident natural persons is lowered at the percentage of 10% (incomes, royalties, commissions, management or consulting services, other services provided in Romania, excluding the international transportation, etc.). This reduction is applicable only for natural persons located in a EU member country or in a state which has concluded with Romania a convention for the avoidance of the double taxation.

7. The resident owes the entire tax duty in Romania, as he or she is a tax-payer under taxation in Romania for the worldly incomes derived from all sources, both in Romania and abroad, pursuant to the provisions of this law and of the applicable treaties signed by Romania. Resident is any Romanian legal person, any foreign legal person with the place of exerting of actual management in Romania, any legal person with headquarters in Romania, set up pursuant to the EU law or any resident natural person.

8. Starting with January 1st, 2022 the adjustments for the depreciation of the debts registered according to the applicable accounting regulations are completely deductible (not only 30%) if the debts meet cumulatively the following conditions:

- ◆ Are still owed for at least 270 days after the payment term;
- ◆ Are not guaranteed by another person;
- ◆ Are owed by a person not affiliated with the tax-payer.

9. The expenses with the depreciation of the tax electronic cashier instruments are not deductible for the calculation of the tax result, but they are subtracted from the owed profit tax. For micro-enterprises, the purchase cost of the tax electronic cashier instruments activated after the year 2018 will be subtracted from the tax on micro-enterprises income for Q4 2020. The amounts that are not subtracted from the owed tax can be carried forward for up to 7 years.

10. From the VAT standpoint, it is not considered a goods delivery the transfer of the property rights to a fixed asset from a tax-payer to a public institution, with a view of settling a tax duty.

11. The turnover level for the application of the VAT upon collection is increased at 4.500.000 lei from 2.250.000 lei.

12. It is allowed to adjust the taxation basis for VAT if the counter value of the goods delivered / services rendered to natural persons was not collected in 12 months after the payment term agreed between the parties or in its absence since the date of the invoice. The adjustment is not applied if the entities are affiliated.

## ECOVIS Romania: In-Cloud Accounting

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The adjustment is allowed only if it is proved that there were applied commercial actions for the collection of the debts below 1.000 lei, included, respectively that there were started the judicial procedures for the collection of the debts surpassing 1.000 lei.

13. Starting with **January 1st, 2022** it is applied the reduced VAT ratio of 5% for deliveries of buildings with housing destination, having a practical surface of maximum 120 m<sup>2</sup>, excluding the house's outbuildings, purchased by individuals, with a value (including the terrain they are built on) of maximum 140.000 Euro, equivalent in lei, calculated at the exchange rate of NBR valid for the date of January 1st of that particular year (the old ceiling was 450.000 lei).

14. **The VAT due to acquisitions of alcoholic drinks and tobacco products will be deductible** as well if they are offered for marketing purposes, for the stimulation of the sells or for the purpose of the business activity.

15. Up to March 15th, 2021, natural persons owning buildings with mixt destination at December 31st, 2020 will register a **Statement regarding the usage for non-residential purpose**. The individuals who have already fulfilled such a statement obligation before December 31st, 2020 are exempted from this duty.

16. For determining the building tax / imposition, the taxable value of the buildings owned by legal persons must be **updated once in 5 years (instead of 3 years)**, based on a appraisal report prepared by an authorizes appraiser – provision valid from July 1st, 2021 and applied for year 2022.

17. **The deadline for the registration of the Personal Tax Statement is extended to May 25th**. The same deadline applies to the registration by the employees of the form 230 "Decision for the destination of the amount representing up to 2% of the annual tax on the incomes from salaries and assimilated to salaries".

18. It is instituted the possibility of setting-up **a tax group for the profit tax** if there are one or more common shareholders owning minimum 75% of the total participation titles / voting rights. The minimum tax period for the setting-up of the group is of 5 years.

19. The reimbursement of VAT with subsequent inspection applies up to March 31st, 2022.

20. The mechanism of rescheduling payments can be accessed by any individual or legal person who accumulated debts to the state budget which expired after the ruling of the state of emergency and it is accessible again in January–March 2021; the previous term expired on December 15th, 2020. Details regarding the rescheduling are presented in our Legal Info from 28.10.2020.



## ECOVIS Romania: Tax & Financial Consulting



The Official Monitory no. 1326 / December 31st, 2020 published the **Emergency Order 220/2020** regarding the application of social protection measures after **January 1st, 2021** under the conditions of the propagation of the coronavirus SARS-CoV-2, as well as for the modification of other regulatory documents.

### **SOCIAL PROTECTION MEASURES**

The employers who during the period January 1st – September 1st 2021 hire for undetermined period, with full time workload, **persons older than 50** whose work relations ceased due to reasons beyond their conduct, during the state of emergency or alert, **individuals aged between 16– 29, registered as unemployed** by the county agencies for the employment of the workforce, respectively of the Bucharest agency, as well as **Romanian citizens** under the same age categories, **whose work relations with foreign employers in other states were ceased in 2020**, due to reasons beyond their conduct, by layoff, receive monthly, for a period of 12 months, for each employee from this category, 50% of the employee's salary, **but no more than 2.500 lei**. The employers bear the obligation of maintaining the work relations for minimum 12 months from the maturity of the 12 months term previously stipulated.

**The amounts** are granted for the salary payment proportionally with the time effectively worked by the employee and it is reimbursed from the budget of the unemployment insurances, at the employer's request, registered electronically at the agencies for the employment of the workforce, as well as the Bucharest agency competent for their headquarters, after the employer pays the salary rights.

## ***ECOVIS Romania: Consulting for ERP & AI Implementation***

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**The granting procedure** is determined by an Order of the president of the National Agency for the Employment of the Workforce, to be published by the Official Monitor in a 5 business days term after the coming into act of this emergency order.

The employers terminating the individual employment contracts before the 12 months term must return to the agencies for the employment of the workforce the total amounts received for each person for which the work relations were ceased before the above-mentioned term, plus the reference interest of the National Bank of Romania valid at the date of the termination of the individual employment agreements, if their termination was based on the agreement of the parties (based on art. 55 lit. b)), for the nullity of the employment agreement, respectively for the reintegration of the fired employee (art. 56 par. (1) lett. d) and e)) and through layoff (art. 65 of the Law no. 53/2003 - Employment Code).

### **THE EXTENSION OF THE FACILITIES FOR SOCIAL PROTECTION UP TO 30.06.2021**

#### **DAY LABORERS**

For the persons rendering unskilled activities occasionally, pursuant to the Law no. [52/2011](#) regarding the exertion of occasional activities by the day laborers, who are working in one of the domains mentioned by art. 13 of the Law no. [52/2011](#), impacted by the interruption or reduction of activity as a consequence of the effects of the coronavirus SARS-CoV-2, for a three months period, at the decision of the work's beneficiary, **but no later than June 30th, 2021**, the state budget grants an amount representing 35% of the payment due for the work day.

#### **SHORT TERM CONTRACTS FOR UP TO 3 MONTHS**

**Up to June 30th, 2021**, but for no longer than a 3 months period, at the decision of the employer, for the employees who concluded individual employment agreements for a determined time of up to 3 months, it is provided the reimbursement of a percentage of their salary, from the budget of the unemployment insurance budget, representing 41,5% of the salary due to the days worked at these workplaces, for a worktime of 8 hours/day, but no more than 41,5% of the gross average salary income mentioned by the Law of the national social insurances budget for the year 2020 (5.429 lei), with the subsequent changes and additions, due to the worked period.

#### **THE TEMPORARY REDUCTION OF THE WORKTIME (KURZARBEIT)**

For the temporary reduction of the worktime (Kurzarbeit), during the state of emergency/alert/siege, as well as for a period of up to three months since the termination of the last period of state of emergency/alert/siege, the employers have the possibility of reducing the workhours of the employees with maximum 50% of the duration per day, week or month, mentioned by the individual employment agreement, with the notification and the consulting of the trade-union, of the representatives of the employees or of the employees, according to each situation, before notifying the decision to the employee. **The measure is applied up to June 30th, 2021.**



## **ECOVIS Romania: Financial & Internal Audit Services**

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### **DAYS OFF TO PARENTS FOR CHILD CARING**

It is extended the measure of granting days off to parents for child care purposes, under the conditions of the limitation of the suspension of the educational activities which impose the actual presence of the children in schools and nursery schools, due to the propagation of the coronavirus SARS-CoV-2 **up to June 30th, 2021** and for the situation when, by an order of the Education Minister, it is instituted the suspension of the activities which impose the actual presence of the children in nursery schools, and schools and the continuation of the educational activities under the online procedure.



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***This info is a selection of some elements of new legislation, with a strictly informational 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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## ECOVIS Romania: One Stop Shop

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### 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 changes.

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