

Tax alert

September 26, 2023



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Project for law on some fiscal budgetary measures dated September 19, 2023, updated with the amendments of September 25, 2023

ECOVIS Romania: payroll and human resource services

Dear Partners,

We would like to inform you that on September 19, 2023, a project of law on some fiscal budgetary measures to ensure Romania's long-term financial sustainability was published on the website of the Ministry of Finance.

<https://mfinante.gov.ro/ro/acasa/transparenta/proiecte-acte-normative>

The project was reviewed by the Government on September 25, 2023, and will be approved in a final form and assumed by the Government as soon as possible.

As some measures are expected to enter into force in a relatively short period of time after the entry into force / publication of the Law (e.g., in 15 days, 60 days, etc.), we submit to your immediate attention a summary of the most important proposed changes.

For the private business environment, the project mainly aims at:

- I. Amendments to the Fiscal Code (changes in tax rates, elimination / reduction of tax incentives, expansion of the tax base for certain incomes, introduction of new taxes, etc.)
- II. Amendments to Law no. 70/2015 on financial and foreign exchange discipline (modification of the limits for daily cash receipts / payments, reintroduction of the maximum cash limit in the cashier), applicable to all legal entities, regardless of the form of organization
- III. Changes to the obligations of transmission / receipt through the RO e-Invoice system of all invoices in the B2B and B2G relationship, applicable to all legal entities, regardless of the form of organization. Application of the RO e-Seal system.

I. **Tax measures regarding Law 227/2015 - Fiscal Code:**

Microenterprise income tax

Starting with **01.01.2024**, the tax rates on microenterprise income will be:

- a) **1%**, for micro-enterprises with revenues not exceeding EUR 60,000 inclusive and that do not carry out activities according to the NACE codes below;
- b) **3%**, for micro-enterprises which:
 1. register revenues over **60,000 euros** ;
 - or**
 2. carries out activities, main or secondary, corresponding to the following **NACE codes**:

ECOVIS Romania: transfer pricing file

- 5821 - Computer game publishing activities;
- 5829 - Publishing activities of other software products;
- 6201 - Custom software development activities (customer-oriented software);
- 6209 - Other information technology service activities;
- 5510 - Hotels and similar accommodation facilities;
- 5520 - Holiday and short-stay accommodation facilities
- 5530 - Caravan parks, campsites, and campsites,
- 5590 - Other accommodation services,
- 5610 - Restaurants,
- 5621 - Event catering,
- 5629 - Other food services;
- 5630 - Bars and other beverage serving activities,
- 6910 - Legal activities – only for professional companies with legal personality, established by lawyers according to law,
- 8621 - General healthcare activities,
- 8622 - Specialised healthcare activities,
- 8623 - Dental care activities ,
- 8690 - Other activities relating to human health.

The tax limits set out above shall be verified on the basis of the revenues recorded cumulatively since the beginning of the tax year and on the basis of the exchange rate valid at the end of the previous financial year.

Particular aspects regarding the application of tax rates

If, during the fiscal year, the revenues of microenterprise exceed the level of EUR 60,000, or the microenterprise starts to carry out the activities corresponding to the NACE codes above, the tax rate of 3% is due starting with the quarter in which such situations occur.

If, during the fiscal year, a microenterprise no longer carries out the activities corresponding to the above NACE codes and revenues do not exceed the level of EUR 60,000, the tax rate of 1% is due starting with the quarter in which such situations occur.

If Romanian legal entities carrying out activities corresponding to the above NACE codes obtain revenues from activities other than those corresponding to these NACE codes, the 3% tax rate also applies to income from these other activities

ECOVIS Romania: financial audit

Income tax, Health insurance contribution (CASS), Social insurance contribution (CAS)

Meal vouchers (income from salaries) – applicable from **01.01.2024**

- ◆ CASS (10%) will be due (will be withheld from the employee's salary) for the equivalent value of meal vouchers and holiday vouchers, granted according to the law. Currently, meal vouchers are taxed only with the tax on salary income (10%).

Changes to IT revenues - applicable from the first date of the month following entry into force of this law and applies to income related to the same month

Income tax :

- ◆ A ceiling of 10,000 lei gross is introduced, up to which exemption from income tax is granted respectively at the place where the basic function is. For the part of the gross monthly income exceeding 10,000 lei, do not apply tax incentives (income tax exemption).
- ◆ It is proposed to limit the application of these facilities until **December 31, 2028** inclusive.

Social security contribution (CAS):

- ◆ It is proposed to reduce the CAS rate by percentage points corresponding to the contribution rate to the privately managed pension fund (pillar II, currently being 3.75%) and starting with **01.01.2024**, it increases to 4.75%). The draft mentions that individuals can opt for the payment of the contribution due to privately administered pension fund.

Incomes earned by employees in construction, agriculture and food industry - applicable from the date of the month following the entry into force of this law and applies to income related to the same month

Income tax:

- ◆ Tax incentives will be restricted for a single individual employment contract, based on the affidavit submitted to the employer.
- ◆ A ceiling of **10,000 lei** gross is introduced, up to which exemption from income tax is granted. For the part of the gross monthly income exceeding 10,000 lei, the fiscal facilities do not apply (income tax exemption) and will be due to the full social security contribution (CAS – 25%, instead of 21.25%).

Health insurance contribution (CASS)

- ◆ The exemption from the CASS payment (health insurance contribution) of 10% that will be withheld from the employee's salary is eliminated.

ECOVIS Romania: tax advice

Self-employed persons (PFA) – applicable starting with revenues realized in 2024

- ◆ The health insurance contribution (CASS – 10%) will be calculated in relation to net income, but within a maximum ceiling of **60 gross minimum wages per country** (compared to 2023, when the ceilings of 6, 12 and 24 salaries apply). Thus, PFAs with annual incomes of less than 60 minimum wages will pay CASS at a rate of 10% of net income, and PFAs with annual incomes higher than 60 minimum wages will pay the health contribution capped at this amount;
- ◆ The possibility of deducting CASS when calculating the taxable base is introduced.

The social security contribution (CAS – 25%) and income tax (10%) remain unchanged.

In the case of PFAs at **income norm**, CASS will be calculated in relation to the income norm (in exchange for ceilings of 6, 12 and 24 salaries).

Important! In order to establish the obligation to pay CASS, income from independent activities will not be cumulated with income from other sources (dividends, interest, rents), for these types of income being due separately CASS.

Health insurance contribution (CASS) for other types of income: *income from intellectual property rights, association with a legal person, cessation of use of goods, income from agricultural activities, forestry and fisheries, income from investments, income from other sources*

In 2024, the health contribution for income from rents, dividends, investments, royalties, other sources, will be paid considering the ceilings of 6, 12 and 24 minimum wages (as in 2023) .

Value added tax

VAT changes as of **1 January 2024** :

⇒ **Changes in VAT rates**

! Change of 5% VAT rate to 9% VAT rate for the following operations:

- ◆ **delivery of housing as part of social policy**, including the land on which they are built.
The reduced rate applies only to dwellings which, at the time of delivery, are habitable as such.

In short, housing delivered as part of social policy means :

- * buildings intended to be used as homes for the elderly and pensioners;
- * buildings intended to be used as children's homes and recovery and rehabilitation centers for disabled minors;
- * buildings delivered to municipalities for award by them on subsidised rent or rented;
- * dwellings with a usable area of maximum 120 sqm, excluding household annexes, whose value, including the land on which they are built, does not exceed the amount of 600,000 lei, purchased by individuals individually or jointly with another natural person / other individuals.

ECOVIS Romania: online accounting

The draft introduces the definition of the notion of "house that at the time of delivery can be inhabited as such", so that its delivery falls within the reduced VAT rate (9%). In short, it is defined as the house that cumulatively fulfils at the date of delivery the following conditions:

- ◇ free individual access to living space;
- ◇ access to electricity and drinking water, controlled disposal of wastewater and domestic waste;
- ◇ consist of at least a resting area, a room for preparing food and a lavatory;
- ◇ exterior finishes include at least: roof if, depending on the type of construction, this constructive element is provided, windows, entrance door;
- ◇ interior finishes include at least: walls finished with paint, wallpaper, tiles, or other elements used for finishing, tiled floors, parquet, or other elements used for finishing, interior doors, depending on the project;
- ◇ sanitary installations and sanitary ware, respectively toilet bowl, washbasin, and bowl washer, with associated batteries;
- ◇ electrical installations, including switchboards, boxes, switches/switches, and sockets.

Any individual may purchase, starting with January 1, 2024, individually or jointly with another individual / other individuals, **a single house** whose value does not exceed the amount of 600,000 lei, excluding VAT, **with the reduced rate of 9%**.

By **exception** to the above provisions, it is proposed to maintain the reduced VAT rate of 5% between January 1 and December 31, 2024 for legal acts concluded between January 1 and December 31, 2023 that have as object the advance payment for the purchase of such a dwelling, **provided that at the date of delivery the houses can be inhabited as such** .

- ◆ **delivery and installation of photovoltaic panels, solar thermal panels, heat pumps**, etc. and components for their repair and/or extension, intended for homes, central or local public administration buildings, buildings of entities under their coordination/subordination, except for commercial companies.

! Change of 5% VAT rate to 9% VAT rate for the following operations:

- ◆ services consisting of allowing access to cinemas and cultural events;
- ◆ services consisting in allowing access to sporting events;

! Change of 5% VAT rate to 19% VAT rate for the following operations:

- ◆ the right to use sports facilities, whose activities are classified under NACE codes 9311 and 9313;
- ◆ the carriage of passengers for tourism or leisure purposes by certain trains or vehicles, including animal traction, boats, or cableway installations;

ECOVIS Romania: internal audit

! Change of 9% VAT rate to 19% VAT rate for the following operations:

- ◆ non-alcoholic beverages falling within CN code 2202 (including non-alcoholic beer),
- ◆ foods with added sugar, the total sugar content of which is not less than 10 g/100g product, other than Easter bread and biscuits.

⇒ **VAT exemptions**

Starting with **January 1, 2024**, the VAT exemption for the following operations applies only if these operations are performed to non-profit entities registered in the Public Register organized by ANAF. The operations are:

- ◆ services of construction, rehabilitation, modernization of hospital units from the state public network;
- ◆ delivery of medical equipment, appliances, devices, and the like; as well as
- ◆ adaptation, repair, rental, and leasing of such goods destined for hospital units in the state public network or those owned and operated by the non-profit entity,

New taxes

Minimum tax (for companies)

Starting with **01.01.2024**, for taxpayers who register a turnover of over EUR 50,000,000 in the previous year, a minimum turnover tax will be introduced.

Taxpayers who will owe a corporate tax (calculated quarterly / annually) lower than the turnover tax (determined as a percentage of 1% of the total revenues adjusted according to the law), will be obliged to pay the profit tax at the level of the minimum turnover tax.

Special tax on real estate and movable property of high value (individuals and legal entities)

From **01.01.2024**, the special tax on real estate and movable property of high value will be introduced for the following categories of taxpayers:

- ◆ Individuals who, on December 31 of the previous fiscal year, own / own common residential buildings located in Romania if the taxable value of the building exceeds **2,500,000 lei**, the tax due will be calculated by applying the 0.3% share on the difference between the value taxable of the building communicated by the local tax body by the tax decision and the ceiling of 2,500,000 lei;
- ◆ Individuals and legal entities owning cars registered/registered in Romania whose individual purchase value exceeds 375,000 lei, the tax due will be calculated by applying the 0.3% rate on the difference between the purchase value and the ceiling of 375,000 lei.

Taxation of income from unidentified sources

Any income found by the tax authorities, under the terms of Law no. 207/2015 on the Fiscal Procedure Code, as subsequently amended and supplemented, whose source has not been identified, are imposed with a rate of **70% applied to the adjusted taxable base**. Through the tax decision, the tax authorities will establish the amount of tax and accessories .

ECOVIS Romania: business consulting and management

II. Law nr. 70/2015 to strengthen financial discipline regarding cash collection and payment operations

According to the draft, the amendments brought to Law no. 70/2015 for strengthening financial discipline regarding cash collection and payment operations will enter into force 15 **days after the date of publication in the Official Gazette of Romania of the law, in the final form in which it will be adopted.**

The proposed changes concern daily limits on cash receipts and payments, as well as a return to a maximum ceiling for existing cash in the cashier.

To simplify the content, the reference to "**company**" covers: legal persons, self-employed persons, sole proprietorships, family businesses, freelancers, self-employed individuals, associations, and other entities with or without legal personality. The main changes are:

A. Establishing daily cash receipt/payment ceilings for companies

1. Company – Company/Advance for settlement

- ◆ The daily ceiling of receipts between companies **will decrease from 5,000 lei to 1,000 lei per day from a company;**
- ◆ The daily limit of payments made between companies **will decrease from 5,000 lei to 1,000 lei per day to a company, but not more than a total of 2,000 lei per day, currently the maximum limit for daily cash payments being 10,000 lei per day .**
- ◆ The daily payment limit **for advances for settlement will decrease from 5,000 lei to 1,000 lei per day for each person** who received advances for settlement.
Attention! According to the existing law (no. 70/2015), advances paid are included in the calculation of the maximum ceiling for daily payments.

2. Company – Cash & Carry Store

- ◆ The daily ceiling of receipts / payments made **between companies and Cash&Carry stores will decrease** from 10,000 lei to **2,000 lei per day from a company.**

Invoices whose value exceeds the ceiling of **1,000 lei**, issued by suppliers of goods and services, respectively **2,000 lei**, issued by Cash & Carry stores, will be paid as follows:

- ◆ 1,000 lei/2,000 lei in cash.
- ◆ The amount exceeding this ceiling can be paid only by non-cash payment instruments (bank transfer, promissory note, etc.).

ECOVIS Romania: audit AML (anti money laundering)

3. Company – Individuals

- ◆ **The daily ceiling** of receipts and payments made between **companies and individuals**, representing the equivalent value of supplies or purchases of goods or services, dividends, assignments of receivables or other rights, receipt or repayment of loans or other financing **will be modified as follows**:
 - * starting with January 1, 2024, from the value of 10,000 lei to 5,000 lei to/from one person;
 - * starting with January 1, 2025, from the value of 5,000 lei to 2,500 lei to/from one person.

B. Establishing the daily ceiling of the amounts in the companies' cashier

- ◆ The cash amounts in the cashier cannot exceed, at the end of each day, the ceiling of **50,000 lei**.
- ◆ It is allowed to exceed this ceiling only with the amounts related to the payment of salaries and other personnel rights, as well as other operations with individuals, for a period of 3 working days from the date provided for their payment.
- ◆ Cash amounts exceeding the ceiling of 50,000 lei will be deposited in the bank accounts of the respective companies within 2 working days.

C. Establishing daily cash receipt/payment ceilings for individuals

The operations of cash receipts and payments **between individuals** for the transfer of ownership of goods or rights, for the provision of services, as well as those representing the granting/repayment of loans **will be modified as follows**:

- a. starting with January 1, 2024, from 50,000 lei to 10,000 lei /transaction;
- b. starting with January 1, 2025, from the value of 10,000 lei to 5,000 lei/ transaction;

Failure to comply with these provisions is a contravention and is sanctioned with a **fine of 25% of** the amount collected/paid, respectively held in the cashier, which exceeds the ceiling set for each type of operation, but not less than 500 lei.

ECOVIS Romania: M&A consulting

III. Electronic invoicing / use of RO e-FACTURA system. RO E-Seal System

RO e-Invoice System

Currently, the use of the Ro e-Invoice system is mandatory for:

- ◆ economic operators in relation to contracting authorities of the state, B2G (business to government)
- ◆ in contracts concluded in the B2B relationship (business to business) to the extent that they have as their object:
 - ◇ Products with fiscal risk
 - ◇ for economic operators offering services paid for with holiday vouchers by individuals.

For other B2B transactions, electronic invoicing (i.e., sending invoices through the RO e-Invoice system) is **currently optional**.

Registration in the RO e - FACTURA Register (for using the electronic invoice transmission system) is **currently optional**.

In order to use the RO e-Invoice system, economic operators must be registered in the SPV (Virtual Private Space)

- * (i) in their own name or through a legal representative,
- * (ii) through a designated representative or
- * (iii) through a proxy.

The transmission of invoices can be done by:

- ⇒ interconnection of the billing application available at issuer level with the RO e-Invoice system, using a series of micro-services exposed in the form of an API (Application Programming Interface);
- ⇒ use of applications provided free of charge by the Ministry of Finance

The main changes proposed for amendment concern:

a) **For taxable persons established in Romania (companies, NGOs, PFAs, etc.), whether or not they are registered for VAT purposes :**

- ◆ The obligation that for supplies of goods and services that have the place of delivery / provision in Romania, made in the B2B relationship (with *other taxable persons*) **and in the B2G relationship** (with public institutions), **between January 1, 2024 and June 30, 2024 to send invoices issued through the RO e - FACTURA system, regardless of whether or not the recipients of invoices are registered in the RO e - FACTURA Register.**
- ◆ During this period (**January 1, 2024 – June 30, 2024**), the obligation to issue and transmit invoices in the classical system (currently applied, according to Article 319 of the Fiscal Code) is maintained, unless both the supplier / provider and the recipient are registered in the RO e-Invoice Register.
- ◆ Starting with **July 1, 2024**, the obligation to send invoices **exclusively through the RO e - FACTURA system for B2B transactions** performed by taxable persons established in Romania occurs.

ECOVIS Romania: interface with banking applications

b) For taxable persons not established but registered for VAT purposes in Romania (foreign companies registered in Romania for VAT transactions)

- ◆ The obligation for supplies of goods and services that have the place of delivery / provision in Romania, made in the *B2B relationship* **starting with January 1, 2024, to send invoices issued in the RO e-Invoice system, regardless of whether or not the recipients are registered in the RO e-Invoice Register.**

c) The deadline for submitting invoices in the electronic invoice system RO e-Invoice is 5 working days from the date of issuing the invoice .

Currently, legislation provides that the use of an electronic invoice is subject to acceptance by the recipient. By introducing the obligation of electronic invoicing through the RO e-Invoice system, the issuer will no longer be obliged to obtain the recipient's consent to send an invoice in electronic format.

The date of communication of the electronic invoice to the recipient is considered to be the date when the electronic invoice is already available to him for downloading from the electronic invoice system RO e-Invoice. In this regard, the recipient will be notified about the electronic invoices received in the electronic invoice system RO e-Invoice.

Exceptions to the application of the e- Invoice system (transmission of invoices through the system):

- ⇒ for intra-Community supplies of goods (goods dispatched or transported within the European Union)
- ⇒ for the export of goods, i.e., supplies of goods dispatched or transported outside the European Union by the supplier, the buyer, or other persons on their behalf .

Contraventions related to the e-Invoice system:

Failure to comply with the provisions between January 1 and March 31, 2024, is not sanctioned.

- ◆ Starting with **April 1, 2024**, failure to send invoices through the RO e-Invoice system is a contravention and is sanctioned with:
 - ⇒ fine from 5,000 lei to 10,000 lei for large taxpayers;
 - ⇒ fine from 2,500 lei to 5,000 lei for medium taxpayers;
 - ⇒ fine from 1,000 lei to 2,500 lei, for other legal entities, as well as for individuals.
- ◆ The receipt and registration of invoices by taxable persons established in Romania, other than through the RO e-Invoice system, for B2B transactions, is sanctioned with **a fine equal to the amount of VAT entered in the respective invoice received .**

ECOVIS Romania: Due diligence

In order to comply with these obligations from January 1, 2024 (sending / receiving invoices through the RO e - FACTURA system) it is necessary:

- ◇ To have an SPV account of the company, as legal representative as holder and (possibly) of the accounting service provider as proxy
- ◇ To register the company in the RO e - FACTURA Register.
- ◇ To adapt the internal invoicing systems to issue electronic invoices and send them through RO e - Invoice. Economic operators who do not have a conversion application can use the IT application provided by the Ministry of Finance, through the National Center for Financial Information, at the time of operationalization of the electronic invoice system RO e - FACTURA .

RO E-Sigiliu System (e-Seal)

In order to ensure compliance with the traceability of road transport of goods on the territory of Romania, the RO e-Seal National System is established.

The E-seal system involves the use of electronic devices (smart seals) and a computer application that records and transmits information in order to track the movement of goods by road.

The application of smart seals and the monitoring of road transport of goods on the national territory based on a risk analysis, as well as the finding of the contravention and the application of the sanction are carried out by ANAF and the Romanian Customs Authority. It is not foreseen whether the E-Seal system will target only certain products, but it is clear that any kind of product can be monitored if it is considered that there are risks of evasion

The procedure for establishing risk criteria, applying smart seals, and monitoring road transport of goods shall be established by joint order drawn up within **60 days from the date of publication** of this law in the Official Gazette of Romania.

Offences related to the e-Seal system

- ◆ **The driver** has the obligation to ensure the integrity of the intelligent seals affixed to the means of transport. Failure to fulfill this obligation is a contravention, if it was not committed under such conditions as to be considered, according to the criminal law, an offense and is sanctioned with a **fine from 20,000 to 50,000 lei**.

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 statements;

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;
- ◇ AML audit (anti money laundering);
- ◇ 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 & updating 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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