ROMANIA TAX UPDATES

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AMNISTIA FISCALA

Ordonanta de urgenta a Guvernului nr. 107 din 4 septembrie 2024 (OUG) pentru reglementarea unor masuri fiscal-bugetare in domeniul gestionarii creantelor bugetare si a deficitului bugetar pentru bugetul general consolidat al Romaniei in anul 2024, precum si pentru modificarea si completarea unor acte normative a fost publicata in Monitorul Oficial nr. 905/6 septembrie 2024.

Aspectele fiscale principale se refera la **anularea dobanzilor si penalitatilor pentru datoriile bugetare restante la data de 31 august 2024 pentru toate categoriile de debitori, daca sunt indeplinite anumite conditii si acordarea unei bonificatii de 3% din impozitul pe profit anual/impozitul pe veniturile microintreprinderilor aferent anului fiscal 2024/anului fiscal modificat care incepe in anul 2024, dupa caz, pentru plata la zi a obligatiilor fiscale.**

1. Anularea dobanzilor si penalitatilor

Datoriile restante la 31 august 2024 includ:

- Obligatii bugetare pentru care s-a implinit scadenta sau termenul de plata pana la data de 31 august 2024 inclusiv, indiferent daca debitorul se afla in insolventa sau nu;
- Diferentele de obligatii stabilite prin decizii de impunere comunicate pana la 31 august 2024 inclusiv, chiar daca pentru acestea nu s-a implinit termenul de plata, precum si diferentele de obligatii bugetare principale aferente perioadelor fiscale de pana la 31 august 2024 inclusiv, stabilite de organul fiscal central ca urmare a unui control fiscal, prin decizie de impunere emisa si comunicata pana la data intrarii in vigoare a ordonantei de urgenta;

TAX AMNESTY

The Government Emergency Ordinance no. 107 of 4 September 2024 (GEO) for the regulation of fiscal-budgetary measures in the field of budgetary receivables management and budget deficit for the consolidated general budget of Romania in 2024, as well as for the modification and completion of some normative acts was published in the Official Journal no. 905/6 September 2024.

The main tax aspects relate to **annulment of interest and penalties for outstanding Budget debts as of 31 August 2024 for all for all debtor categories, if certain requirements are observed and granting of a discount of 3% of the annual profit tax/microenterprise income tax related to fiscal year 2024/the modified fiscal year starting in 2024, as the case may be, for on-time payment of the tax liabilities.**

1. Annulment of interest and penalties

The outstanding debts as of 31 August 2024 include:

- Budgetary liabilities for which the maturity or payment term was fulfilled until 31 August 2024 inclusively, regardless of whether the debtor is insolvent or not;
- Differences of obligations established by tax decisions communicated until 31 August 2024 inclusively, even if they did not meet the payment deadline, the following, as well as the differences in the main budgetary obligations related to the fiscal periods up to and including 31 August 2024, established by the central fiscal body as a result of a tax audit, by a tax decision issued and communicated until the date of entry into force of the emergency ordinance;

- Obligatii bugetare principale aferente perioadelor fiscale de pana la 31 august 2024 inclusiv, stabilite prin decizie de impunere emisa din oficiu de catre organul fiscal sau prin declaratie de impunere depusa cu intarziere de contribuabili, in perioada cuprinsa intre 1 septembrie 2024 si data depunerii cererii de anulare a accesoriilor inclusiv;
- Alte obligatii de plata individualizate in titluri executorii emise conform legii si existente in evidenta organului fiscal in vederea recuperarii la data de 31 august 2024 inclusiv, precum si obligatiile bugetare principale stabilite de alte organe decat organele fiscale, aferente perioadelor fiscale de pana la 31 august 2024, transmise spre recuperare organelor fiscale in perioada cuprinsa intre 1 septembrie 2024 si data depunerii cererii de anulare a accesoriilor, inclusiv.

Nu sunt considerate obligatii de plata restante la 31 august 2024, obligatiile bugetare pentru care s-au acordat si sunt in derulare inlesniri la plata, potrivit legii, precum si obligatiile de plata stabilite in acte administrative a caror executare este suspendata in conditiile legii.

2. Obiectul facilitatilor fiscale si conditiile de acordare:

Acordarea anularii dobanzilor, penalitatilor si a tuturor accesoriilor aferente unor categorii de obligatii bugetare principale de catre organele fiscale se poate face daca sunt respectate anumite conditii.

1. Obligatiile accesorii aferente obligatiilor bugetare principale, restante la data de 31 august 2024 inclusiv, se anuleaza daca sunt indeplinite cumulativ urmatoarele conditii:

a) toate obligatiile bugetare principale restante la data de 31 august 2024 inclusiv, administrate de organul fiscal central, se sting prin orice modalitate prevazuta de lege pana la data depunerii cererii de anulare a accesoriilor inclusiv, dar nu mai tarziu de data de 25 noiembrie 2024;

b) sunt stinse prin orice modalitate prevazuta de lege pana la data depunerii cererii de anulare a accesoriilor inclusiv, toate obligatiile bugetare principale si accesorii administrate de organul fiscal central cu termene de plata cuprinse intre data de 1 septembrie 2024 si data depunerii cererii de anulare a accesoriilor inclusiv, dar nu mai tarziu de data de 25 noiembrie 2024;

- Main budgetary obligations related to tax periods up to and including 31 August 2024, established by tax decision issued ex officio by the fiscal body or by delayed tax declaration submitted by taxpayers, in the period between 1 September 2024 and the date of submission of the application for the annulment of accessories, including;
- Other individualized payment obligations in enforceable titles issued according to the law and existing in the records of the central tax body in view of recovery up to 31 August 2024, as well as to the main tax liabilities established by bodies other than the tax bodies, related to tax periods up to and including 31 August 2024, sent for recovery to the tax bodies in the period between 1 September 2024 and the date of submission of the application for the annulment of ancillaries, including.

They are not considered outstanding payment obligations on 31 August 2024, the budgetary obligations for which payment facilities were granted and are in progress, according to the law, as well as the payment obligations set out in administrative acts whose execution is suspended under the law.

2. Subject of the tax facilities and conditions of granting:

The granting of the annulment of interest, penalties and all ancillaries related to certain categories of main budgetary obligations by the tax bodies can be done if certain conditions are met.

1. The ancillary obligations related to the main budgetary obligations, outstanding on 31 August 2024 inclusive, shall be cancelled if the following conditions are met cumulatively:

a) all outstanding main budgetary obligations as of 31 August 2024, administered by the central fiscal body, shall be extinguished by any means provided by law by the date of submission of the application for annulment of ancillaries including, but not later than 25 November 2024;

b) all principal and ancillary budgetary obligations managed by the central tax authority, with payment deadlines between 1 September 2024 and the date of submission of the request for annulment of ancillaries, inclusive, but no later than 25 November 2024, are settled by any method provided by law by the date of submission of the request for annulment of accessories, inclusive;

c) debitorul sa aiba depuse toate declaratiile fiscale, potrivit vectorului fiscal, pana la data depunerii cererii de anulare a accesoriilor inclusiv;

d) debitorul depune cererea de anulare a accesoriilor dupa indeplinirea in mod corespunzator a conditiilor prevazute la lit. a)—c), pana la data de 25 noiembrie 2024 inclusiv, sub sanctiunea decaderii.

2. Obligatiile accesorii aferente diferentelor de obligatii fiscale principale declarate suplimentar de debitori prin declaratie rectificativa prin care se corecteaza obligatiile bugetare principale cu scadente anterioare datei de 31 august 2024 inclusiv, administrate de organul fiscal, se anuleaza daca sunt indeplinite cumulativ urmatoarele conditii:

a) declaratia rectificativa este depusa incepand cu data de 1 septembrie 2024 pana la data depunerii cererii de anulare a accesoriilor inclusiv, dar nu mai tarziu de data de 25 noiembrie 2024;

b) toate obligatiile bugetare principale individualizate in declaratia rectificativa se sting prin orice modalitate prevazuta de lege pana la data depunerii cererii de anulare a accesoriilor inclusiv, dar nu mai tarziu de data de 25 noiembrie 2024;

c) sunt indeplinite, in mod corespunzator, conditiile prevazute la punctul 1 lit. b) - d) de mai sus.

Aceasta facilitate se aplica in cazul corectarii erorilor din deconturile de TVA efectuate potrivit reglementarilor legale in vigoare.

3. Obligatiile fiscale accesorii aferente obligatiilor bugetare principale cu scadente anterioare datei de 31 august 2024 inclusiv si stinse pana la aceasta data se anuleaza daca sunt indeplinite cumulativ si in mod corespunzator conditiile prevazute anterior la punctul 1 lit. b) – d).

Obligatiile accesorii mentionate anterior stinse prin orice modalitate dupa data intrarii in vigoare a OUG se anuleaza si sunt supuse restituirii potrivit art. 168 din Codul de Procedura Fiscala.

c) the debtor has submitted all tax returns, according to the fiscal vector, by the date of submission of the request for annulment of ancillaries, inclusive;

d) the debtor submits the request for annulment of ancillaries after properly fulfilling the conditions provided by letters a)–c), by 25 November 2024, inclusive, under penalty of preclusion.

2. The ancillary obligations related to the differences in main tax obligations additionally declared by debtors through corrective declarations, which correct the main budgetary obligations with deadlines prior to 31 August 2024, inclusive, managed by the tax authority, are canceled if the following conditions are cumulatively met:

a) the corrective declaration is submitted starting 1 September 2024 until the date of submission of the request for annulment of ancillaries, inclusive, but no later than 25 November 2024;

b) all main budgetary obligations individualized in the corrective declaration are settled by any method provided by law by the date of submission of the request for annulment of accessories, inclusive, but no later than 25 November 2024;

c) the conditions provided in point 1 letters b)–d) above are properly fulfilled.

This facility applies in cases of correcting errors from the VAT returns made according to the legal regulations in force.

3. The ancillary tax obligations related to the principal budgetary obligations with deadlines up to and including 31 August 2024, and settled by this date, are canceled if the conditions provided earlier in point 1 letters b)–d) are cumulatively and properly met.

The ancillary obligations mentioned above, settled by any method after the entry into force of the GEO, are canceled and are subject to refund according to Article 168 of the Fiscal Procedure Code.

4. Dobanzile, penalitatile si toate accesoriile aferente obligatiilor fiscale principale administrate de organul fiscal central cu scadente anterioare datei de 31 august 2024 inclusiv si individualizate in decizii de impunere emise ca urmare a unui control fiscal in derulare la data intrarii in vigoare a OUG, se anuleaza daca sunt indeplinite cumulativ urmatoarele conditii:

a) toate diferentele de obligatii bugetare principale individualizate in decizia de impunere sunt stinse prin orice modalitate prevazuta de art. 22 din Codul de procedura fiscala, pana la termenul de plata prevazut de acesta;

b) cererea de anulare a accesoriilor se depune in termen de 90 de zile de la comunicarea deciziei de impunere, sub sanctiunea decaderii.

Prin control fiscal in derulare la data intrarii in vigoare a ordonantei de urgenta se intelege acel control fiscal pentru care nu s-a comunicat persoanei controlate decizia de impunere pana la data intrarii in vigoare a ordonantei de urgenta. In situatia inspectiilor fiscale ce urmeaza sa inceapa dupa data intrarii in vigoare a ordonantei de urgenta, in scopul acordarii anularii prevazute la punctul 2 de mai sus, organele fiscale iau in considerare declaratiile rectificative depuse de debitori in cel mult 20 de zile de la data intrarii in vigoare a acestei ordonante de urgenta.

<u>In termen de 20 de zile de la data intrarii in vigoare a ordonantei de urgenta, organele fiscale notifica debitorii cu privire la existenta unei verificari documentare aflate in derulare.</u>

<u>Procedura de anulare a obligatiilor accesorii:</u>

Debitorii care intentioneaza sa beneficieze de anularea obligatiilor bugetare accesorii, pot trimite o notificare catre organul fiscal cu privire la intentia lor, pana cel mai tarziu la data depunerii cererii de anulare a accesoriilor, dar nu mai tarziu de data de 25 noiembrie 2024 sub sanctiunea decaderii.

Dupa primirea notificarii, organul fiscal verifica daca debitorul si-a indeplinit obligatiile declarative potrivit vectorului fiscal pana la data depunerii notificarii, efectueaza stingerile, compensarile si orice alte operatiuni necesare in vederea stabilirii cu certitudine a obligatiilor bugetare ce constituie conditie pentru acordarea facilitatii fiscale. In cazul in care se constata ca debitorul nu si-a indeplinit obligatiile declarative, organul fiscal il indruma potrivit art. 7 alin. (2) din Codul de procedura fiscala.

In termen de maxim 5 zile lucratoare de la data depunerii notificarii, organul fiscal elibereaza din oficiu certificatul de atestare fiscala, pe care il comunica debitorului.

4. Interests, penalties and all the ancillary liabilities related to the principal budgetary obligations administered by the central tax authority, with deadlines up to and including 31 August 2024, and individualized in tax assessment decisions issued as a result of an ongoing tax audit at the time of the entry into force of the GEO, are canceled if the following conditions are cumulatively met:

a) all differences in main budgetary obligations individualized in the tax assessment decision are settled by any method provided by Article 22 of the Fiscal Procedure Code, until the payment term stipulated by it;

b) the request for annulment of accessories is submitted within 90 days from the communication of the tax assessment decision, under penalty of preclusion.

By ongoing tax audit at the time of the entry into force of this emergency ordinance, it is understood that such a tax audit is one for which the tax assessment decision has not been communicated to the audited person by the date of the entry into force of this emergency ordinance. In the case of tax inspections that are to begin after the date of entry into force of this emergency ordinance for the purpose of granting the annulment provided above at point 2, the tax authorities will consider the corrective declarations submitted by debtors within a maximum of 20 days from the date of entry into force of this emergency ordinance.

<u>Within 20 days from the date of entry into force of this emergency ordinance, the tax authorities will notify debtors regarding the existence of an ongoing documentary verification.</u>

<u>Procedure for the annulment of ancillary liabilities</u>

Debtors who intend to benefit from the annulment of ancillary liabilities may send a notification to the tax authority regarding their intention, no later than the date of submitting the request for annulment of the accessories, and no later than 25 November 2024, under penalty of preclusion.

After receiving the notification, the tax authority will verify whether the debtor has fulfilled their declarative obligations according to the fiscal vector by the date of submission of the notification, will carry out settlements, compensations, and any other necessary operations to definitively establish the budgetary obligations that constitute a condition for the granting of the fiscal facility. If it is found that the debtor has not fulfilled their declarative obligations, the tax authority will guide them according to Article 7, paragraph (2) of the Fiscal Procedure Code.

Within a maximum of 5 working days from the date of submission of the notification, the tax authority will issue, ex officio, the tax certificate, which will be communicated to the debtor.

Organul fiscal are obligatia de a clarifica cu debitorul eventualele neconcordante cu privire la obligatiile bugetare ce constituie conditie pentru acordarea facilitatii fiscale sau cu privire la cele care pot fi anulate.

Pentru debitorii care au notificat organul fiscal:

- dobanzile, penalitatile si toate accesoriile, care pot face obiectul anularii, se amana la plata in vederea anularii. In acest caz, organul fiscal central emite o decizie de amanare la plata a dobanzilor, penalitatilor si a tuturor accesoriilor;
- procedura de executare silita nu incepe sau se suspenda, dupa caz, pentru obligatiile accesorii amanate la plata;
- obligatiile accesorii amanate la plata nu se sting pana la data solutionarii cererii de anulare a accesoriilor sau pana la data de 25 noiembrie 2024 inclusiv, in cazul in care debitorul nu depune cerere de anulare a accesoriilor;

Decizia de amanare la plata a dobanzilor, penalitatilor si a tuturor accesoriilor isi pierde valabilitatea daca nu sunt indeplinite conditiile prevazute de lege pentru obtinerea anularii.

Dobanzile, penalitatile si accesoriile care au fost stinse dupa data intrarii in vigoare a ordonantei de urgenta se restituie potrivit Codului de Procedura Fiscala.

<u>Facilitatea fiscala reprezentand anularea accesoriilor isi mentine valabilitatea si in urmatoarele cazuri:</u>

- in cazul desfiintarii definitive a actului administrativ fiscal prin care au fost stabilite obligatiile bugetare ce fac obiectul facilitatilor fiscale, in procedura de solutionare a contestatiei, precum si in procedura judiciara, daca s-a dispus emiterea unui nou act administrativ fiscal;
- in cazul in care, ulterior emiterii certificatului de atestare fiscala, organul fiscal constata existenta unor obligatii bugetare ce nu au fost incluse in certificatul de atestare fiscala.

<u>Aceste prevederi nu se aplica obligatiilor bugetare:</u>

a) care fac obiectul unor procese penale aflate in curs de desfasurare la data intrarii in vigoare a ordonantei de urgenta sau care incep ulterior acestei date,

b) stabilite prin hotarari penale definitive;

c) reprezentand prejudicii care fac obiectul art. 10 din Legea nr. 241/2005 pentru prevenirea si combaterea evaziunii fiscale, cu modificarile si completarile ulterioare.

The tax authority is obligated to clarify any discrepancies with the debtor regarding the budgetary obligations that constitute a condition for granting the tax facility or regarding those that can be canceled.

For debtors who have notified the tax authority:

- interest, penalties and all ancillaries that may be subject to annulment are deferred from payment with a view to annulment. In this case, the central tax body issues a decision to postpone the payment of interests, penalties and all the accessories;
- The enforcement procedure will not begin or will be suspended, as the case may be, for the ancillary obligations differed to payment;
- The deferred ancillary liabilities will not be settled until the request for annulment of the accessories is resolved, or until 25 November 2024 inclusive, in case the debtor does not submit an ancillary annulment request;

The decision to defer the payment of interest, penalties, and all accessories loses its validity if the conditions provided by law for obtaining the annulment are not met.

Interest, penalties, and ancillaries that have been settled after the entry into force of the emergency ordinance will be refunded in accordance with the Fiscal Procedure Code .

<u>The tax facility representing the annulment of ancillaries remains valid in the following cases:</u>

- in the case of the definitive annulment of the fiscal administrative act through which the budgetary obligations that are the subject of the fiscal facilities have been established, in the procedure of solving the appeal, as well as in the judicial procedure, if the issuance of a new fiscal administrative act is ordered;
- in the case where, after issuing the tax certificate, the tax authority finds the existence of budgetary obligations that were not included in the tax certificate.

<u>These provisions do not apply to budgetary obligations:</u>

a) that are subject to ongoing criminal proceedings at the date of entry into force of the emergency ordinance or that commence after this date;

b) established by final criminal court rulings;

c) representing damages that fall under Article 10 of Law no. 241/2005 for the prevention and combating of tax evasion, with its subsequent amendments and completions.

3. Bonificatie pentru plata la timp a obligatiilor fiscale

Contribuabilii platitori de impozit pe profit si microintreprinderile pot beneficia de o **reducere de 3%** din impozitul pe profit anual/impozitul pe veniturile microintreprinderilor aferent anului fiscal 2024/anului fiscal modificat care incepe in anul 2024, dupa caz. In cazul grupurilor fiscale, reducerea se aplica impozitului pe profit anual declarat de persoana juridica responsabila.

Pentru a beneficia de aceasta bonificatie, contribuabilii trebuie sa indeplineasca urmatoarele conditii:

- Toate declaratiile, conform vectorului fiscal, sunt depuse la timp;
- Impozitul pe profit anual/ impozitul pe veniturile microintreprinderilor, aferent anului fiscal 2024/anului fiscal modificat care incepe in anul 2024, dupa caz, se achita integral in termenele legale aplicabile;
- nu exista nicio alta obligatie fiscala/bugetara restanta la termenul legal pentru depunerea declaratiilor prin care se declara impozitul pe profit anual aferent anului 2024/anului fiscal modificat care incepe in anul 2024, respectiv prin care se declara impozitul pe veniturile microintreprinderilor aferent trimestrului IV al anului fiscal 2024, potrivit legii.

Suma care reprezinta bonificatia nu este rambursata, dar este compensata cu obligatiile fiscale ale contribuabililor. Prin exceptie, obligatiile fiscale care fac obiectul bonificatiei, pentru care se implineste termenul de prescriptie a dreptului de a cere restituirea, se restituie potrivit art. 168 din Codul de Procedura Fiscala, daca acestea nu au fost compensate cu alte obligati bugetare.

Reducerea se aplica si in cazul in care, la sfarsitul anului fiscal 2024/anul fiscal modificat care incepe in anul 2024, contribuabilii sunt obligati sa plateasca impozitul pe profit la nivelul impozitului minim pe cifra de afaceri.

Procedura de aplicare a amnistiei fiscale urmeaza a se aproba de catre Ministerul Finantelor.

3. Discount for on-time payment of tax liabilities

Profit taxpayers and microenterprise taxpayers may benefit from a **discount of 3%** of the annual profit tax/microenterprise income tax related to fiscal year 2024/the modified fiscal year starting in 2024, as the case may be. In the case of tax groups, the discount is applied to the annual profit tax declared by the responsible legal entity.

To benefit from this discount, taxpayers need to fulfil the following conditions:

- All the tax returns, according to the fiscal vector, are submitted in due time;
- The annual profit tax/ microenterprise income tax, related to fiscal year 2024/the modified fiscal year starting in 2024, as the case may be, is paid in full within the applicable legal deadlines;
- There are no other outstanding tax/budgetary liabilities by the legal deadline for submitting the declarations for the annual profit tax for the year 2024/the modified fiscal year starting in 2024, respectively for declaring the microenterprise income tax for the fourth quarter of the fiscal year 2024, according to the law.

The discounted amount is not refunded, but it is offset against the tax liabilities of qualifying taxpayers. By exception, the tax obligations subject of discount, for which the limitation period of the right to request the refund is fulfilled, shall be refunded according to Article 168 of the Fiscal Procedure Code, if it have not been compensated with other budgetary obligations.

The discount also applies if, at the end of fiscal year 2024/the amended fiscal year beginning in 2024, taxpayers are required to pay the domestic minimum turnover tax.

The procedure for applying the fiscal amnesty is to be approved by the Ministry of Finance.

Informatiile incluse aici sunt de natura generala si nu sunt destinate sa abordeze situatiile particulare unei anumite persoane sau entitati. Desi ne straduim sa oferim informatti exacte si in timp util, nu poate exista nicio garantie ca aceste informatii sunt exacte de la data la care sunt primite sau ca vor continua sa fie exacte in viitor. Nimeni nu ar trebui sa actioneze pe baza unor astfel de informatii fara un sfat profesional adecvat dupa o analiza detaliata a situatiei particulare.

The information contained herein is of a general nature and is not intended to address the circumstances of any individual or entity. Although we endeavor to provide accurate and timely information, there can be no guarantee that this information is accurate as of the date it is received or that it will continue to be accurate in the future. No one should act on such information without appropriate professional advice after a thorough examination of the particular situation.

Nu ezitati sa ne contactati pentru orice clarificari sau intrebari.

Do not hesitate to contact us if there is any related aspect you would like to discuss.

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