

2022

Tax amnesty for external per diems and other tax news



NOA Tax Advisors

NOA Group

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Cancellation of principal and/or ancillary tax obligations for external per diems and other tax news

Amendments presented in brief:

On March 31, 2022, Law no. 72 of March 30, 2022, for the cancellation of some fiscal obligations and for the amendment of some normative acts was published in the Official Gazette no. 315.



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Amendments explained in more details:

Key words:	Cancellation of differences in principal and/or ancillary tax liabilities for external per diems
<ul style="list-style-type: none">Differences in principal and/or ancillary tax liabilitiesPer diems or any other similar amounts, received during delegation/ secondmentCancellation/ refund of tax liabilitiesFiscal reclassificationLabour InspectorateAudits	<ul style="list-style-type: none">❖ Differences in principal and/ or ancillary tax liabilities, established by the tax authority through a tax assessment decision issued following tax inspections, by which they qualified/ reclassified the amounts representing per diems or any other similar amounts, received during delegation, secondment or performance of the activity on the territory of another country, by employees of Romanian employers, for the fiscal periods between July 1, 2015 and the date of entry into force of Law no. 72/2022 (April 3, 2022) and which:<ul style="list-style-type: none">➤ are unpaid, will be cancelled, by issuing a tax obligations annulment decision,➤ have been settled, will be reimbursed to the taxpayers upon their request. The prescription period of the right to request the refund of these amounts begins on the date of entry into force of Law no. 72/2022 (April 3, 2022).❖ If no reclassifications have been made for the amounts representing per diems or any other similar amounts, received during delegation, secondment or performance of activity on the territory of another country, by employees of Romanian employers, the tax authority may no longer reclassify these amounts for the fiscal periods between July 1, 2015 and the date of entry into force of Law no. 72/2022 (April 3, 2022).❖ The fiscal reclassification of the amounts granted in the form of the per diems, secondment allowance, including the specific allowance for transnational secondment, the additional benefit granted based on the mobility clause, received by employees, can be made by the tax authorities under art. 11 para. (1) of Law no. 227/2015 on the Fiscal Code, subsequently amended and supplemented, following the audits performed by the competent bodies of the Labour Inspectorate (at the request of public authorities and institutions or ex officio), whereby the delegation, secondment, transnational secondment situations that may occur for employees, are assessed.



Key words:

- Delegation/secondment allowances
- Non-taxable ceiling
- 2.5 times the level set for the allowance / per diem
- 3 base salaries / remunerations

Amendments to Law no. 227/2015 on the Fiscal Code, subsequently amended and supplemented

- ❖ **The non-taxable ceiling** and for which **no social contributions are due**, applicable in case of **per diems received by employees**, according to the law, **during delegation/secondment**, in another locality, in the country and abroad, for business purposes, applies for delegation allowances, secondment allowances, including the allowance specific to the transnational posting, the additional benefits received by employees under the mobility clause, as well for as any similar other amounts.
- ❖ **Non-taxable ceiling and for which no social contributions apply** in case of:
 - the allowances received by the employees, according to the law, during delegation/ secondment, in another locality in the country and abroad, for business purposes, and
 - the allowances received by the administrators established according to the constitutive act, the administration / mandate contract, by the directors who carry out their activity based on the mandate contract, by the members of the management board of companies managed in dualistic system and of the supervisory board, as well as by managers, based on the management contract,

of 2.5 times the level established for the allowance, for the personnel of the public authorities and institutions, **respectively 2.5 times the legal level established for per diems**, for the Romanian personnel sent abroad for the accomplishment of some temporary missions, **cannot exceed 3 base salaries corresponding to the job / 3 remunerations provided in the legal report.**
- ❖ The ceiling representing **3 base salaries of the job/ 3 remunerations provided in the legal report** shall be computed by dividing the 3 salaries/ remunerations to the number of working days in the respective month, and the result shall be multiplied by the number of days of secondment/ delegation/ performance of the activity in another locality in the country or abroad.
- ❖ These provisions apply starting with the income related to the month following the one in which this law enters into force.



How we may help you:

NOA Tax Advisors team supports companies by providing advice and guidance in various cases on the new legislative changes as mentioned above, as well as in all situations encountered from a tax point of view.

NOA Tax Advisors team is at your disposal for more details regarding those presented in this summary of legislative news.

Best regards,

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"It's not just about nicely packed advices, we've added the practical, the tailored and the client experience."