

Fiscal news of April



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Amendments in brief:

On April 6th, 2023, the Emergency Ordinance 20 of April 5th, 2023 amending and supplementing Law 207/2015 on Fiscal Procedure Code, and amending Government Ordinance 6/2019 regarding the establishment of some tax facilities, that brings new clarifications regarding the staggered payments, was published in the Official Gazette No. 290.

Also, on April 6th, 2023, Order 420 of March 31st, 2023 approving the model and content of the form "Compliance notification issued by the tax inspection body", the notification procedure and the frequency of issuance, and amending Annex no. 1.a to the Order of the President of the National Agency for Fiscal Administration No. 3.711/2015 regarding the model and content of the forms and documents used in the tax inspection activity, was published in the Official Gazette No. 291.

On April 12th, 2023, Law 88 of April 11th, 2023 amending and supplementing Law 227/2015 on the Fiscal Code introduces new categories of VAT exemptions, was published in the Official Gazette No. 310.

On April 13th, 2023, Order 227 of April 11th, 2023, amending and supplementing the Norms for the application of the provisions of the Government Emergency Ordinance 158/2005 regarding the social health insurance leave and allowances, approved by the Order of the Minister of Health and of the President of the National Health Insurance House No. 15/2018/1.311/2017, which brings clarifications regarding the insured income registered in the insurance agreement for social health insurance leave and allowances, was published in the Official Gazette No. 316.

Moreover, on April 18th, 2023, Law 93 of April 12th, 2023 supplementing Law 207/2015 on the Fiscal Procedure Code, which introduces special rules regarding the settlement of receivables without payment, was published in the Official Gazette No. 320.

On April 24th, 2023, Order 521 of April 11th, 2023, regarding the repeal of the Order of the President of National Agency for Fiscal Administration No. 2.901/2016 for the approval of the Instructions for filling in the electronic administrative document (e-DA) by using the application EMCS-RO-Control of the movements of excisable products to which tax suspension/exemption applies, was published in the Official Gazette No. 340.

Also, on April 24th, 2023, Decision No. 355 of April 20th, 2023, which amends and supplements the Methodological Norms for the application of the Government Emergency Ordinance No. 28/1999 regarding the obligation of economic operators to use electronic cash registers, approved by

Government Decision No. 479/2003, by providing clarifications regarding the unattended devices, was published in the Official Gazette No. 344.

As well, on April 26th, 2023, the National Agency for Fiscal Administration published the English version of the Guide for Fiscal Residence of Individuals.

On April 28th, 2023, Decision No. 45 of April 24th, 2023, regarding the Council Directive proposal to amend Directive 2006/112/EC on VAT rules for the digital era - COM (2022) 701 final, was published in the Official Gazette no. 366.

In addition, also on April 28th, 2023, Decision No. 44 of April 24th, 2023, regarding the Council Regulation proposal to amend the Regulation (EU) No. 904/2010 on VAT administrative cooperation agreements necessary for the digital era - COM (2022) 703 final, was published in the Official Gazette No. 366.

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Amendments explained in more detail:

Key words:	Provisions on staggered payments
<ul style="list-style-type: none"> Guarantees less than 50% of the amount of outstanding tax obligations 	<ul style="list-style-type: none"> ❖ Changes are being made with respect to the possibility for the central tax authority to allow payment rescheduling for the debtors who do not own assets in order to establish guarantees, <u>nor can they establish any kind of guarantee, or the amount of the established guarantees is less than 50% of the amount of the outstanding tax obligations</u> that are subject to the payment facilities - in this case the payment rescheduling is allowed for maximum 6 months.
<ul style="list-style-type: none"> Non-applicability of staggered payments to excise duties 	<ul style="list-style-type: none"> ❖ Payment rescheduling can be also allowed for tax/budgetary obligations consisting in European funds or national public funds related to European funds, but <u>it is not allowed</u> for tax obligations consisting in excise duties.
<ul style="list-style-type: none"> Fulfilled conditions 	<ul style="list-style-type: none"> ❖ The conditions for payment rescheduling are also fulfilled if: <ul style="list-style-type: none"> ✓ the debtor does not own property in order to establish guarantees (<i>in this case, the payment by installments is allowed for maximum 6 months, and the application shall be accompanied by a payment schedule proposal</i>), ✓ the debtor provides guarantees whose value is less than 50% of the value of the outstanding tax obligations that are the subject of the rescheduled payment (<i>in this case, the payment by installments is allowed for maximum 6 months, and the application shall be accompanied by a payment schedule proposal</i>) or ✓ the debtor provides guarantees whose value is greater than 50% of the amount of the outstanding tax obligations, but insufficient as compared to the amount of the guarantees (<i>the rescheduled payment is allowed for maximum 5 years in this case</i>).
<ul style="list-style-type: none"> Establishment of guarantees 	<p>In such cases, the late payment penalties reflected in the tax confirmation certificate are not deferred for payment and are included in the installments. If such debtors own insufficient assets to cover the level of guarantees, they shall establish guarantees for the value of the assets owned.</p>
<ul style="list-style-type: none"> Payment of excise duties within 30 days 	
<ul style="list-style-type: none"> Application for modifying the rescheduled payment decision 	<ul style="list-style-type: none"> ❖ The provision according to which no guarantee is required for rescheduled payment of tax obligations of up to RON 5,000 in case of individuals, or of up to RON 10,000 in case of associations without legal personality, or of up to RON 20,000 in case of legal entities, is repealed.
<ul style="list-style-type: none"> The 10-day period 	<ul style="list-style-type: none"> ❖ The tax obligations consisting in excise duties, which were not paid by the date of communicating the staggered payment decision and which are not subject to the rescheduling, must be paid within no more than 30 days from the date of communicating the decision, this being a condition for maintaining the validity of the staggered payment.
<ul style="list-style-type: none"> Application for maintaining the rescheduling 	<ul style="list-style-type: none"> ❖ A taxpayer can submit only one application for modifying the rescheduled payment decision during a calendar year (<i>in the past, it was possible to apply twice for modification</i>), while maintaining the already approved rescheduled period (<i>it is not possible to apply for another rescheduled payment period</i>), except the case when the value of the guarantees

<ul style="list-style-type: none"> • Rescheduled payment in a simplified form 	<p>provided by the debtors is less than 50% compared with the amount of the outstanding tax obligations that are the subject of the payment facilities, in which case the rescheduled payment period is not longer than 6 months.</p>
<ul style="list-style-type: none"> • Interest level changes 	<ul style="list-style-type: none"> ❖ After submitting the application, within 10 days from communicating the agreement in principle by the tax authority, the debtor must also present the guarantees provided by law (<i>in the past, the 10-day period began from the issuing of the agreement in principle</i>).
<ul style="list-style-type: none"> • Staggered payments in progress or that lost their validity 	<ul style="list-style-type: none"> ❖ The debtor can apply for the maintaining of a staggered payment whose validity was lost only once during a calendar year (<i>in the past, it was possible to apply twice for maintaining a staggered payment</i>). ❖ Changes are also made in case as concerns the simplified payment rescheduling. This can also be allowed for tax/budgetary obligations consisting in European funds or national public funds related to European funds.
<ul style="list-style-type: none"> • Restructuring of budgetary obligations outstanding on December 31st, 2021 	<ul style="list-style-type: none"> ❖ On the other hand, a simplified payment rescheduling can no longer be allowed for excise duties (<i>they must be paid within 30 days from the date of communicating the staggered payment decision</i>), taxes and mandatory social contributions subject to withholding or withheld at source (<i>these must be paid within 60 days from the date of communicating the staggered payment decision</i>), taxes related to gambling businesses (<i>these must be paid within 30 days from the date of communicating the staggered payment decision</i>).
<ul style="list-style-type: none"> • Transitory measures 	<ul style="list-style-type: none"> ❖ Also in the case of a simplified payment rescheduling, only one application for modification of the staggered payment decision can be submitted during the validity period of the staggered payment (<i>in the past, it was possible to apply twice for modification</i>), while maintaining the staggered payment period already approved (<i>another staggered payment period cannot be requested</i>). ❖ In case of a simplified payment rescheduling, the interest level changes from 0.01% to 0.02% for each day of delay. ❖ Also in the case of a simplified payment rescheduling, the debtor can apply for maintaining a staggered payment whose validity was lost only once during the validity period of the staggered payment (<i>in the past, it was possible to apply twice for maintaining a staggered payment</i>). ❖ Similar changes are made in the case of restructuring measures for budgetary obligations outstanding on December 31st, 2021, established by Ordinance 6/2019 regarding the establishment of certain tax facilities, as follows: <ul style="list-style-type: none"> ✓ only one application to change the payment facility decision can be submitted during a calendar year or, as the case may be, during a part of calendar year (<i>previously 2 applications could be submitted</i>); ✓ only one application to maintain a payment facility whose validity was lost during a calendar year or during a part of calendar year can be submitted (<i>previously 2 applications could be submitted</i>).

- ❖ The changes related to the rescheduling of payments/restructuring of budgetary obligations, including the simplified ones, apply to the applications for rescheduling/restructuring of payments, as well as to applications for modifying/maintaining a payment rescheduling/payment facility, submitted after the date of entry into force of the Emergency Ordinance (i.e. April 6th, 2023).
- ❖ Transitory measures are provided for:
 - ✓ the debtors who have submitted/submit applications to change/maintain rescheduled payments/payment facilities during 2023, applications to change/maintain rescheduled payments that are unsettled on the date of entry into force of the Emergency Ordinance and for the debtors who submit, after this date, applications for modifying/maintaining rescheduled payments, in a simplified form, in progress or that lost their validity on that date;
 - ✓ the applicability of the late payment interest of 0.02%, to the simplified payment rescheduling that are in progress on the date of entry into force of the Emergency Ordinance, those that lost their validity and for which there are pending applications to maintain the staggered payments or for which the debtor submits an application to maintain the staggered payment after that date;
 - ✓ the applicability of the changes regarding the impossibility of including in the rescheduled payments the tax obligations consisting in excise duties or taxes and mandatory social contributions subject to withholding or withheld at source or taxes related to gambling businesses, for the applications for changing staggered payments submitted after the date of entry into force of the Emergency Ordinance.

Key words:

- VAT exempted operations

Provisions on VAT exempted operations

- ❖ New VAT exemptions are added in case of:
 - a) construction, rehabilitation, modernization services for public hospitals, as well as hospital construction, rehabilitation, modernization services provided to non-profit entities registered in the Public Register organized by NAFA, if the services are provided for hospitals owned and operated by a non-profit entity or for public hospitals, as the case may be;
 - b) supplies of medical equipment, devices, items, accessories and protective equipment, materials and consumables for sanitary use, usually designed to be used in the healthcare system or by disabled persons, essential goods for compensating and overcoming disabilities, as well as the adaptation, repairing, rental and leasing of such goods, provided to public hospitals, as well as those provided to non-profit entities registered in the Public Register organized by NAFA, if they are designed for hospitals owned and operated by a non-profit entity or for public hospitals, as the case may be;

- Application of exemptions

- c) supplies of prostheses and accessories, except for dental prostheses delivered by dentists and dental technicians, exempted from tax according to Art. 292 para. (1) letter b);
- d) delivery of orthopedic products.
- ❖ The VAT exemption for the supplies of goods/services previously mentioned under letters a) and b) applies:
 - ✓ directly, by invoicing without VAT by the suppliers of goods/providers of services, if the beneficiary of the delivery/service is a public hospital or, as the case may be, a central or local public institution/authority that finances it, according to the law;
 - ✓ by refunding the VAT related to the purchases of goods or services by non-profit entities, according to a procedure established by order of the Minister of Public Finance. The amounts returned from the state budget are used by the non-profit entities exclusively for the financing of the purchases of goods and/or services previously mentioned under letters a) and b).
- ❖ The previously provided tax exemptions are applied under the conditions provided in the methodological norms that shall be issued within 60 days from the date of publication of the law.
- ❖ The provisions enter into force 60 days after the date of publication of the law (i.e. April 12th, 2023).

Keywords:

- Insured income registered in the insurance agreement for social health insurance leaves and allowances
- Gross minimum basic salary per country with guaranteed payment
- Value of 3 minimum gross basic salaries per country with guaranteed

Provisions on the insured income registered in the insurance agreement signed in order to benefit from social health insurance leaves and allowances

- ❖ If the individuals who choose to benefit from leaves and allowances, other than those insured according to the law, opt to enter into an insurance agreement for social health insurance leaves and allowances, the insured income registered in the insurance agreement, to which the contribution is due, is the monthly income or, as the case may be, the monthly average of the income registered in the tax return submitted in order to pay the social health insurance contribution, which cannot be lower than the value of a gross minimum basic salary per country with guaranteed payment, established according to the law, and cannot exceed 3 times its value.
- ❖ For the individuals who do not earn any income or have the average monthly income registered in the tax return lower than the value of a minimum gross basic salary per country with guaranteed payment, the insured income registered in the insurance agreement for social health insurance leaves and allowances, to which the contribution is due, is the gross minimum basic salary per country with guaranteed payment.
- ❖ For the individuals with the average monthly income registered in the tax return greater than or equal to the value of a gross minimum basic salary per country with guaranteed payment, the insured income registered in the insurance agreement for social health insurance leaves and allowances, to which the contribution is due, is the one registered in the

<p>payment</p> <ul style="list-style-type: none"> Tax return 	<p>tax return and cannot exceed the value of 3 minimum gross basic salaries per country with guaranteed payment.</p> <ul style="list-style-type: none"> ❖ In order to enter into insurance agreements for social health insurance leaves and allowances, the individuals must submit a copy of the tax return submitted for the payment of the social health insurance contribution to the health insurance house where they are registered as taxpayers of social health insurance contribution. The monthly income registered in the insurance agreement cannot be adjusted to the income obtained by the insured individual and registered in the tax return. ❖ In case of such individuals, the basis for calculating the allowances is established as the average of the insured monthly income in the 6 months preceding the month for which the medical leave is granted, out of the 12 months for which the insurance contribution is paid, up to the limit of 3 monthly gross minimum salaries per country.
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<p>Keywords:</p> <ul style="list-style-type: none"> Settlement of tax debts Settlement procedure 	<p><i>Provisions on no-payment settlement of tax receivables</i></p> <ul style="list-style-type: none"> ❖ The tax receivables of a taxpayer, confirmed, liquid and enforceable, <u>from local budgets</u>, established by final court decisions, shall also be settled at the request of the taxpayer by offsetting them with his/ her outstanding, current or future obligations <u>towards the state budget</u>, without offsetting between budgets, regardless whether the obligations and the receivables subject to settlement are managed or not by the same public authority. ❖ The procedure for settlement and exchange of information between the local tax authorities and the central tax authorities is approved by the joint order of the Minister of Public Finance and the Minister of Development, Public Works and Administration. ❖ The provisions also apply to the settlement of receivables from local budgets, established by final court decisions established before the entry into force of the law (<i>i.e., April 21st, 2023</i>) and not settled until this date.
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<p>Keywords:</p> <ul style="list-style-type: none"> Unattended equipment Self-service services Devices such as vending machines 	<p><i>Provisions on unattended equipment</i></p> <ul style="list-style-type: none"> ❖ The obligation of the users of electronic cash registers to issue tax receipts to customers for all retail goods delivered and/or services provided, and at their request, to also issue an invoice, does not apply to the exceptions provided by the Emergency Ordinance. ❖ The wording '<i>unattended equipment</i>' is introduced for the devices such as the vending machines, which operate based on card payments, as well as banknote or coin acceptors, as the case may be, through which food and/or non-food products are retailed or services are provided directly to the population. The devices or terminals with functions of electronic cash registers integrated into unattended equipment such as the vending machines that operate based on card payments, as well as banknote or coin acceptors, are considered electronic cash registers within the meaning of the Emergency Ordinance. ❖ The devices that collect the value of self-service services, such as, but not
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- Special register
- Filling stations
- Statement on installation of electronic cash registers

limited to, those provided in car washes or automatic textile washing stations are also included in the category of unattended equipment.

- ❖ The devices such as the vending machines that retail food and/or non-food products or provide services directly to the population, which are not constructively equipped with a control unit, are not considered unattended equipment.
- ❖ The operations carried out until a faulty device is repaired shall be registered in the special register as soon as they are carried out or, at the latest, at the end of the working day, depending on the specificity of the operations carried out; the obligation does not apply to the exceptions provided by the Emergency Ordinance.
- ❖ The identifiable program approved together with the electronic cash registers designed for filling stations must be connected to the fuel distribution pumps, to allow monitoring of the movement of energy products and establishment at any time of the incoming and outgoing quantities, as well as the stocks, per each type of energy product and supplier.
- ❖ The user submits a copy of the Statement on installation of electronic cash registers to the relevant tax authority, and the accredited service unit submits a copy of it to the authorized distributor.

Keywords:

- Compliance notification
- Electronic administrative document (e-DA)
- Guide for fiscal residence of individuals

Other news

- ❖ The model and content of the "Compliance notification issued by the tax inspection authority" form and the notification procedure and the frequency of its issuance are approved. The compliance notification is sent by the tax inspection authority to taxpayers/presumptive taxpayers to be selected for tax inspection, indicating the identified tax risks in order to re-examine the fiscal status and, as the case may be, to submit or to correct tax returns.
- ❖ The new instructions for filling in the electronic administrative document (e-DA) by using the application EMCS-RO-Control of the movements of excisable products to which tax suspension/exemption applies are approved.
- ❖ The English version of the Guide for fiscal residence of individuals was published.



NOA înseamnă servicii **premium** de consultanță fiscală, audit intern și strategii de business. Fiecare client NOA are parte de **experiența solidă** a specialiștilor noștri, obținută în proiecte complexe, dar livrată în procese extrem de agile. Fără ierarhii de secolul 20, fără birocrație. Realitatea economică volatilă cere **agilitate** în luarea deciziilor din business.

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În acest moment, NOA operează din trei sedii la București, Cluj-Napoca și Londra.



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