

Other tax news of October





Other tax news of October

Amendments in brief:

Completion of some accounting regulations – Order of the Minister of Finance no. 2649/2023 on the amendment and completion of some accounting regulations was published on October 6, 2023, in the Official Gazette no. 903.

Some contraventions are eliminated from the Prevention Law – Government Decision no. 937/2023 for the amendment of annex no. 1 to Government Decision no. 33/2018 regarding the establishment of contraventions that fall under the Prevention Law no. 270/2017, as well as the remediation plan model and for the amendment and completion of some normative acts was published on October 6, 2023, in the Official Gazette no. 904.

Harsher conditions for the organization and exploitation of gambling – Emergency ordinance no. 82/2023 for the amendment and completion of the Government Emergency Ordinance no. 77/2009 on the organization and operation of gambling, as well as for the amendment of the Government Emergency Ordinance no. 20/2013 regarding the establishment, organization and operation of the National Gambling Office and for the amendment and completion of the Government Emergency Ordinance no. 77/2009 was published on October 6, 2023, in the Official Gazette no. 905.

Completion of the EU list of non-cooperative jurisdictions for tax purposes – The decision of the Council of the European Union was adopted on October 17, 2023.

Changes to the taxation of pension income – Law no. 282/2023 for the amendment and completion of some normative acts in the service pensions field and Law no. 227/2015 regarding the Fiscal Code was published on October 20, 2023, in the Official Gazette no. 950.

DAC8 directive on administrative cooperation in the tax area - COUNCIL DIRECTIVE (EU) 2023/2226 of 17 October 2023 amending Directive 2011/16/EU on administrative cooperation in the field of taxation was published on 24 October 2023 in the Official Journal of the European Union.

Other news of interest:

Indexing of cultural vouchers – Order of the Minister of Finance and the Minister of Culture no. 2540/3452/2023 for establishing the value of the indexed amount that is granted in the form of cultural vouchers for the second semester of 2023 was published on October 5, 2023, in the Official Gazette no. 899.

The obligation of economic operators to use electronic fiscal cash registers – Order of the President of the National Fiscal Administration Agency no. 1612/2023 regarding the documents that can

be requested according to art. 61 para. (5) from the annex to Government Decision no. 479/2003 regarding the approval of the Methodological Norms for the application of the Government Emergency Ordinance no. 28/1999 regarding the obligation of economic operators to use electronic fiscal cash registers was published on October 12, 2023, in the Official Gazette no. 919.

Merger, spin-off or transfer of business carried out by remote gambling operators - Order no. 181 of October 24, 2023 regarding the approval of the conditions to carry out the merger, spin-off or transfer of business process, by the organizers of remote gambling which, on the date of entry into force of the Government Emergency Ordinance no. 82/2023 for the amendment and completion of the Government Emergency Ordinance no. 77/2009 regarding the organization and operation of gambling, as well as for the amendment of the Government Emergency Ordinance no. 20/2013 regarding the establishment, organization and operation of the National Gambling Office and for the amendment and completion of the Government Emergency Ordinance no. 77/2009, do not meet the condition provided for in art. 15 para. (1) lit. B point (x) of the Government Emergency Ordinance no. 77/2009 on the organization and exploitation of gambling was published on October 26, 2023 in the Official Gazette no. 973.

Contents

Completion of some accounting regulations (Order 2649/2023)	4
Some contraventions are eliminated from the prevention Law (G.D. 937/2023).....	4
Harsher conditions for the organization and exploitation of gambling (GEO 82/2023)	5
Completion of the EU list of non-cooperative jurisdictions for tax purposes (Decision of the Council of the European Union)	5
Changes to the taxation of pension income (Law 282/2023)	6
DAC8 directive on administrative cooperation in the tax area (DIRECTIVE UE 2023/2226)	6
Other news of interest	7
Indexing of cultural vouchers (Order 2540/3452/2023)	7
The obligation of economic operators to use electronic fiscal cash registers (Order 1612/2023)	7
Merger, spin-off or transfer of business carried out by remote gambling operators (Order 181/2023)	7

Amendments in detail:

Key-words:

- Chart of accounts
- Management expenses
- Consultancy expenses
- Tax group in the profit tax field

Completion of some accounting regulations (Order 2649/2023)

- ❖ The following accounts are added to the chart of accounts:
 - 1496 - losses resulting from companies' reorganizations, corresponding to the negative net asset of the absorbed company (A)
 - 6121 – royalties expenses;
 - 6122 – tenancy expenses;
 - 6123 – rental expenses;
 - 616 – expenses with intellectual property rights;
 - 617 – management expenses;
 - 618 – consultancy expenses.
- ❖ Additions are made to the functioning of account 691 (profit tax expenses), namely the fact that for **profit tax groups**, the responsible legal entity shall record in the debit of account 691 the total expense with the profit tax owed by the tax group.
- ❖ The account 266 – deferred green certificates – is eliminated.

Key-words:

- The prevention Law
- Warning
- Contraventions
- Reporting obligations
- Fines

Some contraventions are eliminated from the prevention Law (G.D. 937/2023)

- ❖ The following contraventions are removed from the Prevention Law no. 270/2017, so the warning can no longer be applied in their case:
 - violation of certain provisions regarding the obligation to use electronic fiscal cash registers,
 - certain contraventions established by Law no. 207/2015 on the Fiscal Procedure Code, regarding, mainly, non-fulfilment of reporting obligations within the legal term, including those relating to recapitulative statements and to the provision of periodic information requested by the fiscal body, as well as those of fiscal registration/deletion, non-compliance with the obligations of drawing up the transfer pricing file, the obligation to register in the Register of intra-community operators, as well as others,
 - the use of payment terminals that are not installed according to the provisions of the Government Emergency Ordinance no. 193/2002 on the introduction of modern payment systems,
 - non-compliance with the obligations in the field of local taxes and fees, including the late submission of tax returns.
- ❖ Also, the value of fines for non-fulfilment of obligations in the excise duties area is updated from 2,000 lei to 10,000 lei (compared to 5,000 lei previously), as well as those for non-fulfilment of the obligations established by the Regulation on the Application of the Romanian Customs Code.

Key-words:

- The gambling licence
- Permanent establishment in Romania
- 6 months
- Joint operation of gambling
- Sale of alcoholic beverages
- Annual contributions
- Discounts

Harsher conditions for the organization and exploitation of gambling (GEO 82/2023)

- ❖ The gambling licence may only be granted to companies registered in Romania or legal entities legally constituted in a member state of the European Union or in signatory states of the Agreement on the European Economic Area or in the Swiss Confederation, which **have registered a permanent establishment in Romania.**
- ❖ Licensed economic operators **have 6 months** to request the transfer of the license held in Romania to another company, the registration of a permanent establishment or obtaining a new license.
- ❖ The **joint operation of gambling is limited** to 2 or more gambling organizers, each licensed according to the law, or legal entities under common control with gambling organizers licensed according to the law.
- ❖ The conditions under which **outdoor advertising for gambling** can be carried out are tightened and **commercial activities involving the sale of alcoholic beverages** in gaming halls and locations authorized for betting activities are prohibited. Also, these locations cannot have a common entrance or access to a space where alcoholic beverages are sold.
- ❖ The National Gambling Office will organize a public register of licensed/authorized operators.
- ❖ **The annual contributions of gambling organizers will increase**, and in the case of licensed traditional gambling organizers, the value of contributions will be different depending on the type of gambling.
- ❖ The payment deadline of the annual fee related to the authorization of the exploitation of gambling for casinos, slot-machines and the poker festival are changed.
- ❖ **A 10% discount** is granted for gambling operators who have a monthly obligation to pay the authorization fee, provided they make the payment for the whole year in advance.
- ❖ New types of contraventions sanctioned by fines are introduced and the level of guarantees to cover the non-payment risk is increased.

Key-words:

- EU list of non-cooperative jurisdictions for tax purposes
- Non-deductible expenses

Completion of the EU list of non-cooperative jurisdictions for tax purposes (Decision of the Council of the European Union)

- ❖ Antigua and Barbuda, Belize and Seychelles added to the **EU list of non-cooperative jurisdictions for tax purposes.**
- ❖ We remind you that, according to the provisions of the Fiscal Code, expenses related to transactions made with a person located in a state that is included in Annex I of the EU List of non-cooperative jurisdictions for tax purposes **are not deductible for profit tax computation purposes**, if the expenses are carried out as a result of transactions that do not have an economic purpose.

Key-words:

- Public service pensions
- Progressive taxation

Changes to the taxation of pension income (Law 282/2023)

- ❖ The law makes additions on public service pensions and amends their taxation mechanism.
- ❖ Thus, for the monthly income from pensions that has both a contributory and a non-contributory component, as well as that which has only a non-contributory component, **for the non-contributory part, the taxation will be progressive, with rates between 10% and 20%.**

Key-words:

- Dividend income
- Five categories of income and capital
- Wealthy individuals
- Crypto-Assets
- Crypto-Asset Operator register
- TIN
- E-money
- Central Bank Digital Currencies

DAC8 directive on administrative cooperation in the tax area (DIRECTIVE UE 2023/2226)

- ❖ The following specific category of income and capital is added to the list of those in respect of which the competent authority of each Member State communicates to the competent authority of any other Member State, by automatic exchange, all information that is available relating to residents of that Member State:
 - **non-custodial dividend income** other than income from dividends exempt from corporate income tax pursuant to the Council Directive 2011/96/EU.
- ❖ Before 1 January 2026, Member States shall inform the Commission of **at least five categories of income and capital**, information concerning residents of that other Member State and such information shall concern taxable periods starting on or after 1 January 2026, except for advance cross-border tax rulings which exclusively concerns and involves the tax affairs of one or more natural persons.
- ❖ Information will be provided on advance cross-border ruling that concerns and involves the tax affairs of one or more natural persons that have been issued, amended or renewed after January 1, 2026 and concern **transactions exceeding 1.5 million Euros ("wealthy individuals") or rulings establishing the tax residence of natural persons.**
- ❖ The conditions for the mandatory automatic exchange of information reported by **Reporting Crypto-Asset Service Providers** are regulated. The competent authority of a Member State must provide detailed information on the persons who are the subject to reporting, including users and controlled entities, information which includes names, addresses, tax identification numbers and other relevant details and which must cover various aspects such as types of crypto-assets, amounts, number of transactions and others, depending on the context.
- ❖ To ensure compliance with reporting requirements, each Member State must establish rules for the registration of crypto-asset operators and allocate an individual identification number, and by the end of 2025, the Commission will draw up a **Crypto-Asset Operator register**, which will be made available to the competent authorities of all Member States.
- ❖ Information exchanged between Member States may be used for the assessment, administration and enforcement of the duties and taxes referred to in the Directive, as well as VAT, other indirect taxes, customs duties and for anti-money laundering and countering the financing of

- January 1, 2026

terrorism, as well as for other purposes falling under art. 215 of the Treaty on the Functioning of the European Union which regulates the imposition of economic sanctions on third countries.

- ❖ The provisions are amended on the reporting by the reporting person/entity of **the Taxpayer Identification Number (s) (TIN) of the reported persons/entities** and its communication by each member state, and the Commission will make available to the Member States a tool that enables electronic and automated verification of the correctness of TINs provided by a reporting entity or a taxpayer for the purpose of automatic exchange of information.
- ❖ **E-money, Central Bank Digital Currencies**, as well as **crypto-assets** will fall under the scope of the directive on the exchange of information on tax matters.
- ❖ Member States must adopt, publish and implement the laws and administrative provisions necessary to comply with the provisions of the directive by December 31, 2025, and they will apply **from January 1, 2026**.

Other news of interest

Key-words:

- Cultural vouchers
- Electronic fiscal cash registers
- Supporting documents
- Gambling
- Merger/ spin-off

Indexing of cultural vouchers (Order 2540/3452/2023)

- ❖ The value of cultural vouchers for employees will increase from a maximum of 200 lei per month and a maximum of 400 lei per event, to 210 lei/month and 420 lei/event, respectively.
- ❖ According to the order, these values will be valid for the second semester of the current year, starting from October 2023, as well as for the first two months of 2024.

The obligation of economic operators to use electronic fiscal cash registers (Order 1612/2023)

- ❖ The documents, that can be requested by the fiscal body in order to verify the fulfilment of the conditions for assigning the unique identification number of the electronic fiscal cash registers are approved.
- ❖ The order mainly concerns the supporting documents that can be requested by the fiscal body for transport the activities or rental for tourist purposes of rooms located in personal homes.

Merger, spin-off or transfer of business carried out by remote gambling operators (Order 181/2023)

- ❖ The order regulates the conditions for carrying out the merger, spin-off or business transfer process by the organizers of remote gambling that do not meet the condition of being companies registered in Romania or having a permanent establishment in Romania, as a result of the entry into force of Government Emergency Ordinance no. 82/2023.
- ❖ The new provisions concern the merger, spin-off or business transfer procedures, **carried out within 6 months from the date of entry into**

- Business transfer

- GEO 82/2023

- 45 days

force of the Government Emergency Ordinance no. 82/2023, by legal entities legally established in a member state of the European Union or in signatory states of the Agreement on the European Economic Area or in the Swiss Confederation, which carry out remote gambling activities.

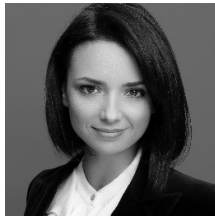
- ❖ The request for the transfer of the organization license and the authorization to operate the activity as a result of the merger, spin-off or business transfer **can be submitted within 45 days from the entry into force of the order**, if the merger/spin-off project or the agreement regarding the business transfer provides for the continuation of the activity and the transfer of all rights and obligations deriving from the contracts concluded with the providers of connected services and with the gambling participants, to an existing or newly established Romanian company.



NOA înseamnă servicii **premium** de consultanță fiscală, audit intern și strategie 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.

Cu un spirit **independent**, conectat la prezentul viu, NOA oferă liderilor companiilor vizionare tot suportul în luarea deciziilor. Când au nevoie, cum au nevoie. Peste 100 de companii locale și internaționale, din industrii precum tehnologie, infrastructură, FMCG și retail sunt clienți NOA.

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



Otilia Pețu
Managing Partner
otilia.petu@noagroup.ro



Mircea Dumitrașcu
Partner
mircea.dumitrascu@noagroup.ro



Lidia Terzea
Partner
lidia.terzea@noagroup.ro



Diana Roșu
Tax Director
diana.rosu@noagroup.ro