

# A new tax amnesty

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### Amendments in brief:

A new tax amnesty is introduced, valid from September 6 to November 25, 2024. Its actual implementation is subject to the approval of the procedure issued by an order of the Ministry of Finance by September 21, 2024.

Essentially, all categories of debtors may benefit from the amnesty if they meet certain conditions. The regulation addresses three possible situations:

1. Legal entities subject to profit tax and microenterprise income tax with no declaration and payment obligations – they may benefit from a 3% discount on the tax for the fiscal year 2024.
2. Legal entities and similar categories with outstanding debts as of August 31, 2024 – they may benefit from the full cancellation of some ancillary tax obligations. This is not refunded but offset against future tax liabilities.
3. Individuals with outstanding debts as of August 31, 2024 – they may benefit from a 50% or 25% reduction of the main tax obligations (depending on their value relative to the RON 5,000 threshold) and full cancellation of ancillary obligations.

More details on the relevant conditions are provided below.

## Amendments in detail:

### Key-words:

- September 21, 2024
- below or above RON 5,000
- a 3% discount
- eligibility
- tax amnesty
- November 25, 2024

**Emergency Ordinance 107/2024** which outlines fiscal and budgetary measures for managing budgetary debts and reducing the fiscal deficit for Romania's consolidated general budget in 2024 and also modifies and supplements other regulatory acts.

- ❖ published in the Official Gazette no. 905 on September 6, 2024.
- ❖ the detailed application procedure is set to be approved upon the recommendation of the ANAF President, by September 21, 2024 (within 15 days of the date OUG 107 comes into effect).
- ❖ in general terms, the incentive applies to principle budgetary tax obligations that are due as at August 31, 2024 (conditions).
- ❖ Who is eligible? – All categories of debtors, including:
  - Individuals or legal entities, whether public or private,
  - Partnerships and other entities without legal personality,
  - Individuals engaged in independent economic activities or practicing liberal professions,
  - Administrative-territorial units or subdivisions of Bucharest, or public institutions as defined by Law no. 500/2002 on public finances and Law no. 273/2006 on local public finances.

### **A. Legal entities with outstanding tax liabilities**

- ❖ What does the amnesty involve? – It entails the cancellation of interest, penalties, and all accessories related to outstanding principal budgetary obligations as of August 31, 2024, subject to certain conditions.
  - ❖ **Cumulative conditions** for application
    - All outstanding principal budgetary obligations as of August 31, 2024, managed by the central tax authority, must be settled through any legally provided method by the date the accessory cancellation request is submitted, but no later than November 25, 2024.
- ! Note:** Obligations can be settled through payment, offset, enforcement, exemption, cancellation, prescription, deed in lieu, or any other expressly provided method.
- By the time the accessory cancellation request is submitted, all principal and accessory budgetary obligations managed by the central tax authority, with due dates between September 1, 2024, and the request submission date, must also be settled, but no later than November 25, 2024.
  - The debtor must have submitted all tax declarations, according to the tax vector, by the time of the accessory cancellation request.

- accessory cancellation request
- principal and accessory budgetary obligations
- due dates between September 1, 2024 and November 25, 2024
- voluntarily declared
- cumulative conditions
- August 31, 2024
- September 1, 2024, and November 25, 2024
- VAT returns
- September 6, 2024

**! Note:** This condition is considered fulfilled even if the tax obligations were established by a decision from the central tax authority for periods where no tax declarations were submitted.

- The accessory cancellation request must be submitted after all the above conditions are met, no later than November 25, 2024, under penalty of forfeiture.

❖ Accessories related to differences in voluntarily declared principal budgetary obligations through corrective statements for obligations with due dates prior to August 31, 2024, will also be canceled, subject to the following cumulative conditions:

- The corrective statement must be submitted between September 1, 2024, and November 25, 2024.
- All principal budgetary obligations detailed in the corrective statement must be settled by the time the accessory cancellation request is submitted, but no later than November 25, 2024.
- All fundamental conditions for the fiscal amnesty mentioned above must be fulfilled.
- These provisions also apply to the correction of errors in VAT returns.

❖ Accessories related to principal budgetary obligations with due dates before August 31, 2024, and settled after September 6, 2024, will be canceled and are eligible for reimbursement.

❖ Accessories related to obligations with due dates before August 31, 2024, and specified in tax assessment decisions issued following a tax audit ongoing as of September 6, 2024, will be canceled if:

- All differences in principal budgetary obligations detailed in the tax assessment decision are settled by any method by the payment deadline, which is based on the decision's communication date (Article 156(1) of the Fiscal Procedure Code), and
- The accessory cancellation request is submitted within 90 days from the communication of the tax assessment decision, under penalty of forfeiture.

**! Note:** "Ongoing tax audit" as of the effective date of this ordinance means an audit for which no tax assessment decision has been communicated to the taxpayer by September 6, 2024.

**! Note:** Corrective statements submitted by debtors by September 26, 2024 (within 20 days from the effective date of this ordinance), during tax inspections starting after September 6, 2024, aimed at canceling accessories related to obligations due by August 31, 2024, will be considered, as an exception to the provisions of the Fiscal Procedure Code (Article 105(8)).

❖ When does the amnesty **not apply**?

- Accessories related to recoverable state aid

• tax assessment decisions	– Accessories related to funds owed to the European Union budget
• tax audit	– Accessories related to principal budgetary obligations that are not considered outstanding as of August 31, 2024.
• The accessory cancellation request	❖ Who applies the tax amnesty measures? <ul style="list-style-type: none"> <li>– <u>Customs authorities for customs debts</u> (the decision to regularize the situation regarding additional obligations determined by the customs audit is treated as a tax assessment decision issued by tax inspection authorities)</li> </ul>
• 90 days	! Note: The decision to regularize additional obligations determined by the customs audit, made at the taxpayer's request to correct declared customs obligations, is treated as a corrective statement.
• Ongoing tax audit	– <u>Central tax authorities for budgetary obligations determined by economic-financial inspection bodies</u> (mandatory decisions and minutes).
• September 26, 2024	❖ What are considered principal budgetary obligations outstanding as of August 31, 2024?
• Corrective statements	a) Budgetary obligations for which the due date or payment deadline was reached by August 31, 2024, inclusive.
	b) Principal budgetary obligations owed by debtors in insolvency, for which the due date was reached by August 31, 2024, inclusive, regardless of the existence of a claims table or payment plan. ! !!!Exception: Simplified invoices, for which reporting in the national RO e-invoice system is not mandatory, may still be communicated traditionally.
• Customs authorities for customs debts	c) Differences in principal budgetary <u>obligations established through tax assessment decisions communicated by August 31, 2024</u> , inclusive, even if the payment deadline provided by Article 156(1) of Law no. 207/2015 on the Fiscal Procedure Code has not yet passed.
	d) Differences in principal budgetary obligations related to fiscal periods up to and <u>including August 31, 2024</u> , established by the central tax authority through a <u>tax assessment decision issued and communicated by the effective date of this ordinance (i.e., September 6, 2024)</u> , following a tax audit.
• principal budgetary obligations outstanding	e) Principal budgetary obligations related to fiscal periods up to and including August 31, 2024, <u>established through tax assessment decisions issued ex officio by the tax authority or through tax returns filed late by the taxpayer</u> , during the period between September 1, 2024, and the date the accessory cancellation request is submitted.
• August 31, 2024	

- Simplified invoices

- tax assessment decision

- September 1, 2024

f) Other payment obligations individualized in enforceable titles issued according to the law and present in the tax authority's records for recovery as of August 31, 2024, inclusive.

g) Principal budgetary obligations established by authorities other than the tax authorities, related to fiscal periods up to and including August 31, 2024, and transferred for recovery to the tax authorities during the period between September 1, 2024, and the date the accessory cancellation request is submitted.

❖ **What are not** considered outstanding payment obligations on August 31, 2024?

- Budgetary obligations for which the due date or payment deadline was reached by August 31, 2024, inclusive.
- Principal budgetary obligations owed by debtors in insolvency, for which the due date was reached by August 31, 2024, inclusive, regardless of the existence of a claims table or payment plan.

**! Note:** The above payment obligations, due no later than November 25, 2024 inclusive, but for which the payment facility loses its validity or the suspension of the execution of the tax administrative act ceases, are the subject of this tax amnesty

**! Note:** For the above obligations, with suspended execution, debtors can submit a request to waive the effects of the suspension of the fiscal administrative act until the date of submission of the request to cancel the accessories including to benefit from the cancellation of interest, penalties and all accessories.

❖ **How to benefit from amnesty?**

- Debtors must submit a notification to the tax authority no later than the date of submitting the accessory cancellation request, but no later than November 25, 2024.
- The tax authority will verify the fulfillment of declarative obligations according to the tax vector by the notification submission date and will carry out the settlements, offsets, and any other necessary operations to accurately determine the budgetary obligations.
- Any failure to meet declarative obligations will be corrected under the guidance of the tax authority.
- Submitting the notification does not eliminate the debtor's obligation to also submit the accessory deferral request as per this ordinance.
- The accessory deferral request must be submitted no later than November 25, 2024.

**! Note:** Until November 25, 2024, debtors who submitted the above notification and are subject to garnishment measures on their bank accounts as of September 6, 2024, can pay the amounts indicated in the

- Amnesty benefits
- Debtors
- Tax authority

- November 25, 2024
- September 6, 2024

- Installment plan

- VAT refund request

garnishment orders, except for those subject to the deferral for the purpose of cancellation.

! Note: The above also applies to garnishment measures initiated between September 6, 2024, and November 25, 2024, inclusive, as per the law.

! Note: Debtors benefiting from an installment plan for tax obligations as of September 6, 2024, and those obtaining an installment plan between September 6, 2024, and November 25, 2024, can benefit from the tax amnesty provided by OUG 107/2024.

! If the installment plan is completed by the date the accessory cancellation request is submitted, but no later than November 25, 2024, accessories included in installment payments with due dates between September 6, 2024, and November 25, 2024, paid along with the installment, will be refunded.

- ❖ A debtor may benefit from the cancellation of accessories in any of the situations provided in OUG 107/2024, either independently or cumulatively, if the conditions for cancellation are met.
- ❖ Outstanding budgetary obligations as of August 31, 2024, owed to local budgets, may benefit from the tax amnesty on an optional basis if the local council passes a resolution establishing the application of these provisions (including the procedure for granting accessory cancellations).
- ❖ Debtors with pending VAT refund requests as of November 25, 2024, whose refunds are fully or partially rejected after this date, can benefit from the cancellation of accessory obligations if they pay the budgetary obligations on which the cancellation depends, which were not offset by amounts specified in the refund request, within 30 days from the communication of the decision rejecting the refund.
- ❖ Acts issued following notifications of intent to benefit from accessory cancellation may be contested.

## **B. Legal entities with no outstanding tax liabilities**

- ❖ Corporate income taxpayers and micro-enterprise taxpayers will receive a 3% discount on their 2024 fiscal year related tax, or for the modified fiscal year beginning in 2024.
- ❖ The discount is granted even if such taxpayers owe during the fiscal year 2024 the minimum tax on turnover, by law.
- ❖ This may be offset against future tax liabilities.
- ❖ Under what conditions is it granted?
  - The taxpayer submitted all declarations in accordance with the fiscal vector.
  - The annual corporate income tax/microenterprise income tax is fully paid within the legal deadline.

- 30 days
- accessory cancellation

- The taxpayer has no other outstanding fiscal/budgetary obligations by the legal deadline for submitting the declarations for the two taxes mentioned above.

! Note: These conditions are automatically verified by the tax authority after the deadline for submitting the annual corporate income tax return (June 30, 2025) / the microenterprise income tax return for the 4th quarter of the fiscal year 2024 (January 25, 2025).

- ❖ Amounts redirected from the annual corporate income tax are not included in the calculation of the 3% discount.

### **C. Individuals with outstanding tax liabilities**

- ❖ The tax incentive available to individuals with debts as of August 31, 2024, varies depending on whether these debts exceed the threshold of RON 5,000.

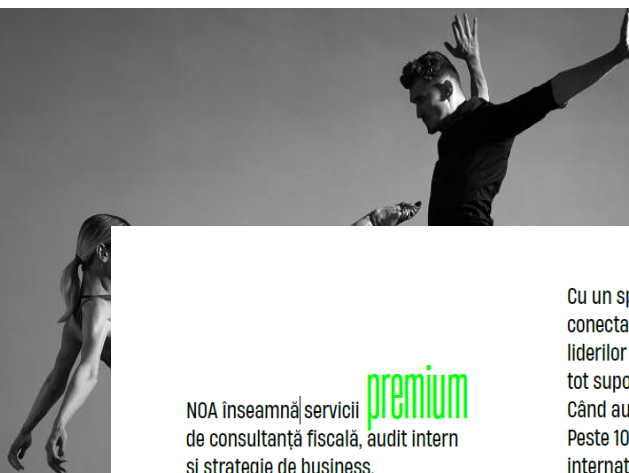
- ❖ If the obligations are less than RON 5,000:

- 50% of the main budgetary obligations outstanding as of August 31, 2024, are canceled if 50% of them are paid off by the date of submitting the cancellation request, but no later than November 25, 2024.
- All ancillary tax obligations related to the main tax obligations outstanding as of August 31, 2024, are canceled.

- ❖ If the obligations exceed RON 5,000:

- 25% of the main budgetary obligations outstanding as of August 31, 2024, are canceled if 75% of them are paid off by the date of submitting the cancellation request, but no later than November 25, 2024.
- All ancillary tax obligations related to the main tax obligations outstanding as of August 31, 2024, are canceled.





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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



Maria Bădescu (Pascu)  
Tax Senior Manager  
maria.badescu@noagroup.ro