

# JINGA & ASOCIATII

**Bucharest Office:** Floreasca Office Center, 133-137 Calea Floreasca, 5th Floor, 1st District, 014456, Bucharest. Tel: (40-371) 136 502 | Fax: (40-372) 895 095  
**Brasov Office:** 2 Nicolae Titulescu St, 1st Floor, 500010, Brasov, Tel: (40-372) 709 499, (40-368) 414 638 | Fax: (40-368) 414 639

## BULETIN FISCAL/ TAX NEWSLETTER

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In ultima perioada au intervenit o serie de modificari fiscale cu impact semnificativ asupra activitatilor economice desfasurate de catre contribuabili. Reamintim mai jos cateva dintre aceste modificari.

During the last period, several fiscal changes were approved with significant impact over the economic activities carried out by taxpayers. We highlight below a few of these changes.

### **Publicarea Noului Cod Fiscal, in vigoare de la 1 ianuarie 2016, si a Normelor Metodologice aferente**

### **The new Fiscal Code, in force from 1 January 2016, as well as the related Methodological Norms, have been published**

Noul Cod Fiscal, intrat in vigoare de la 1 ianuarie 2016, a fost aprobat prin Legea 227/2015 fiind modificat si completat ulterior de Ordonanta de Urgenta 50/2015.

The new Fiscal Code, entered into force from 1 January 2016, has been approved by Law 227/2015, further amended and completed by Emergency Ordinance 50/2015.

Legea 227/2015 inlocuieste vechea lege aferenta Codului Fiscal, si anume Legea 571/2003.

Law 227/2015 replaces the old law regulating the Fiscal Code, namely Law 571/2003.

Normele Metodologice de aplicare a noului Cod Fiscal au fost aprobate recent prin Hotararea 1/ 2016 la data de 13 ianuarie 2016. Aceasta abroga Hotararea 44/2004 privind Normele Metodologice aferente Codului Fiscal vechi.

The Methodological Norms for the application of the new Fiscal Code have been recently published through Decision 1/ 2016 at 13 January 2016. This new decision abolish Decision 44/2004 regarding Methodological Norms for the application of the old Fiscal Code.

Printre modificarile noului Cod Fiscal intrat in vigoare de la 1 ianuarie 2016 subliniem:

We highlight below several changes encountered within the new Fiscal Code valid from 1 January 2016:

- Modificari cu caracter general privind definirea anumitor termeni sau

- General definitions of some terms have been introduced or changes were made



reformularea unor definitii deja existente

- Introducerea unor conditii mai favorabile cu privire la aplicarea deducerii suplimentare pentru cheltuieli de cercetare-dezvoltare
- Actualizarea listei privind veniturile considerate neimpozabile la calculul impozitului pe profit
- Modificari cu privire la deductibilitatea cheltuielilor (regula generala, mod de calcul pentru cheltuieli de protocol, reducerea ratei dobanzii pentru imprumuturile in valuta cu termen de rambursare mai mare de 1 an, etc.)
- Modificari cu privire la impozitul pe veniturile microintreprinderilor (indeplinirea anumitor conditii, modalitati de calcul a bazei impozabile, notificare privind aplicarea regimului), majorarea plafonului de aplicare a acestui impozit de la 65000 Euro la 100000 Euro, reducerea cotei de impozitare pentru microintreprinderile care au salariati
- Reducerea cotei la 5% pentru impozitul pe veniturile din dividende distribuite incepand cu 1 ianuarie 2016
- Reducerea cotei standard de TVA de la 24% la 20% incepand cu 1 ianuarie 2016, si la 19% incepand cu 1 ianuarie 2017
- Introducerea taxarii inverse pentru livrarea de bunuri imobile, telefoane

to certain existing definitions

- More favourable conditions have been introduced in terms of supplementary deduction applicable for research and development expenses
- Updates were brought to the list of revenues considered non-taxable at corporate income tax calculation
- Changes were made to the expense deductibility provisions (general rule, protocol expense calculation method, reduction of the interest rate for loans in foreign currency with reimbursement period greater than 1 year, etc.)
- Changes were made to the micro-enterprise tax provisions (fulfilment of certain conditions, methods for calculation of taxable base, notification for the application of the micro-enterprise regime), micro-enterprise threshold increased from EUR 65000 to EUR 100000, reduction of tax for micro-enterprises with employees
- Tax on dividends reduced at 5% in case of dividends distributed starting 1 January 2016
- Standard VAT rate reduction from 24% to 20% starting 1 January 2016, and to 19% starting 1 January 2017
- Introduction of reverse-charge mechanism for supply of immovable



mobile, tablete PC, laptop-uri, etc. si limitarea aplicarii masurilor de simplificare la o anumita valoare in cazul anumitor tipuri de bunuri (de exemplu pentru telefoane mobile, laptop-uri, dispozitive cu circuite integrate, tablete PC, etc., taxarea inversa se va aplica doar daca valoarea, exclusiv TVA, este mai mare sau egala cu 22500 RON)

- Se introduce cota redusa de TVA de 5% in cazul livrarii de exemplu carti, ziare si unele reviste, etc. pentru care anterior se aplica cota redusa de 9%
- Extinderea aplicarii cotei reduse de 9% si pentru livrarea apei potabile si a apei pentru irigatii in agricultura
- Cresterea plafonului de la 380000 RON la 450000 RON in cazul aplicarii cotei reduse de TVA de 5% pentru livrarea locuintelor ca parte a politicii sociale
- Introducerea posibilitatii de renuntare la cererea de rambursare a TVA in baza unei notificari depuse la autoritatile fiscale
- Introducerea obligatiei la nivelul autoritatilor fiscale de a tine cont de jurisprudenta Curtii Europene de Justitie in momentul interpretarii legislatiei existente
- Impozitarea cladirilor in functie de destinatia acestora, cum ar fi rezidentiala, nerezidentiala, mixta, si nu doar in functie de proprietar, persoana fizica sau juridica

goods, mobile phones, PC tablets, laptops, etc. and limitation to a specific value the application of the reverse-charge mechanism for certain categories of goods (for example, for mobile phones, laptops, integrated circuit devices, PC tablets, etc., the reverse-charge mechanism could be applied only if the value, exclusive of VAT, is greater or equal with RON 22500)

- The 9% VAT rate for supply of books, newspapers, magazines, etc. was reduced to 5%
- The reduced VAT rate of 9% was extended also for supply of drinking water and water for irrigation in agriculture
- The threshold for applying the reduced 5% VAT rate for supplies of social housing will increase from RON 380000 to RON 450000
- Introducing the possibility of waiver of VAT refund request on the basis of a notification submitted to the tax authorities
- Introducing the obligation for the tax authorities to take into account the European Court of Justice case law when interpreting existing legislation
- Taxation of buildings depending on their destination, such as residential, non-residential, mixed and not just according to the owner, individual or legal entity



- Eliminarea impozitului pe constructii incepand cu 1 ianuarie 2017

Informatiile de mai sus sunt doar cateva exemple din numeroasele modificari introduse de noul Cod Fiscal.

- Starting 1 January 2017, tax on construction will be eliminated

The above information are just a few examples of the many changes introduced by the new Fiscal Code.

### **Provocari administrative - noul formular 394**

Ordinul ANAF 3769/2015 aduce schimbari majore la modelul si continutul formularului 394, respectiv declaratiei informative privind livrarile/ prestarile si achizitiile efectuate pe teritoriul national de persoanele inregistrate in scopuri de TVA.

Prevederile Ordinului sunt aplicabile incepand cu 1 aprilie 2016, insa contribuabilii au obligatia depunerii declaratiei 394 pe noul format incepand cu primul trimestru din 2016. Astfel, pentru lunile ianuarie si februarie 2016, exista obligatia inlocuirii pana la data de 25 aprilie 2016, a formularului 394 depus la autoritatile fiscale pe vechiul format cu noul model de formular 394. Declaratia 394 aferenta lunii martie se va depune direct pe noul format pana la 25 aprilie 2016.

In noul formular 394, se vor declara:

a) tranzactiile efectuate cu platitori/ neplatitori de TVA, parteneri UE/ non-UE, parteneri care aplica sau nu aplica sistemul TVA la incasare, precum si operatiunile efectuate prin intermediul aparatelor de marcat electronice fiscale

b) plaja de facturi si seria/ numarul (auto) facturilor anulate/ stornate

Totodata, se vor descrie operatiunile din care provine soldul sumei negative de TVA solicitat la rambursare in perioada de

### **Administrative challenges – new Form 394**

ANAF Order 3769/2015 brings major changes to Form 394, respectively the informative statement regarding deliveries/ supplies and acquisitions made on national territory by VAT registered persons.

Order's provisions are applicable from 1 April 2016, but taxpayers have to submit the declaration on the new format starting the first quarter of 2016. Thus, for months January and February 2016, taxpayers are obliged to replace by 25 April 2016, the Form 394 submitted to the tax authorities on the old version with the new 394 model Form. Form 394 related to March 2016 transactions will be submitted to the tax authorities directly on the new format until 25 April 2016.

In the new Form 394, should be declared:

a) transactions performed with taxable person registered or not for VAT, EU/ non-EU partners, those who apply or not the VAT cash accounting system, as well as operations performed through electronic cash tax register

b) series/ number of (self) invoices canceled/ credit notes

Also, it should be described the operations conducting to a negative balance of the VAT amount requested at refund in the reporting



raportare.

### **Facilitati fiscale**

Prin Ordonanta 44/ 2015 au fost reglementate o serie de facilitati fiscale in randul contribuabililor.

Astfel, contribuabilii aflati în dificultate si care nu au fost în masura sa acceseze o esalonare la plata obligatiilor fiscale restante, vor putea beneficia de anulara penalitatilor de intarziere si a unei cote de 54.2% din dobanzi, in situatia achitarii, pana la 31 martie 2016, a obligatiilor principale restante la data de 30 septembrie 2015.

Conditii/ criteriile de indeplinit, precum si categoriile de contribuabili si situatiile in care se pot acesa aceste facilitati fiscale sunt detaliate in Ordonanta mentionata mai sus.

Pentru intrebari cu privire la informatiile cuprinse in acest buletin informativ, va rugam sa nu ezitati sa ne contactati.

Ana-Maria Graure

Tax Partner

[anamaria.graure@ja.ro](mailto:anamaria.graure@ja.ro)

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period.

### **Fiscal incentives**

Through Ordinance 44/2015 were introduced a series of tax incentives among taxpayers.

Thus, taxpayers in difficulty and not able to access a rescheduling payment of outstanding tax obligations will be eligible for cancellation of penalties and a rate of 54.2% from interest due, in the situation of paying up to 31 March 2016, the principal obligation outstanding at 30 September 2015.

The conditions/ criteria to be met, as well as the categories of taxpayers and the situations when such tax incentives could be accessed are detailed in the aforementioned Ordinance.

For questions regarding information contained in this newsletter, please do not hesitate to contact us.

Ana-Maria Graure

Tax Partner

[anamaria.graure@ja.ro](mailto:anamaria.graure@ja.ro)

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