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### **The Order regarding the establishing products with high fiscal risk, marketed in the B2B relationship**

On January 10, 2022, it was published in the Official Gazette no. 27 / 10.01.2022 the order on establishing products with high fiscal risk, marketed in the B2B relationship.

### **The Order for the approval of some procedures for collecting the budget receivables representing the VAT due by the taxpayers who apply the special regimes provided by art. 314, 315 and 315<sup>2</sup> of Law no. 227/2015 regarding the Tax Code**

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### **The Law no. 5/2022 for the ratification of the Multilateral Convention for the implementation into double tax treaties of the provisions against base erosion and profit shifting, opened for signature and signed by Romania in Paris, at June 7, 2017 has been enacted.**

### The order regarding the establishing products with high fiscal risk, marketed in the B2B relationship

Through this order are indicated the products with high fiscal risk, marketed in the B2B relationship, for which the invoices issued in the national system regarding the electronic invoice RO e-Invoice are transmitted, regulated by the Government Emergency Ordinance no. 120/2021 on the administration, operation and implementation of the national system on electronic invoicing RO e-Invoice and electronic invoicing in Romania.

To this end, this order establishes **five categories of products** considered to be at high tax risk, such as:

- **vegetables, fruits, roots and edible tubers, other edible plants** - based on certain CN codes specified in the order;
- **alcoholic beverages** - based on certain CN codes specified in the order;
- **new constructions** - based on the legal provisions mentioned in art. 292, para (2) let. f) of Law no. 227/2015 on the Fiscal Code;
- **mineral products (natural mineral water, sand and gravel)** - based on certain CN codes specified in the order;
- **clothing and footwear** - based on certain CN codes specified in the order.

At the same time, for each product, the motivations for falling into the category of high fiscal risk are specified.

The transmission of invoices issued in the national system regarding the electronic invoice RO e-Invoice is established in two stages, regardless of whether or not the recipients are registered in the Register of RO e-Invoice, respectively:

- a) between **April 1 and June 30, 2022**, the suppliers can send the invoices issued in the national system regarding the electronic invoice RO e-Invoice;
- b) **starting with July 1, 2022, the suppliers are obliged** to send the invoices issued in the national system regarding the electronic invoice RO e-Invoice.

### The order for the approval of some procedures for collecting the budget receivables representing the VAT due by the taxpayers who apply the special regimes provided by art. 314, 315 and 315<sup>2</sup> of Law no. 227/2015 regarding the Tax Code

This order applies to taxpayers who use the special regimes provided by art. 314, 315 and 315<sup>2</sup> of Law no. 227/2015 regarding the Tax Code, with subsequent amendments and completions, respectively:

- a) the special regime for services provided by taxable persons not established in the European Union;
- b) the special regime for the distance sales of intra-Community goods, for the supply of internal goods by electronic interfaces which facilitate such supply and for the services provided by taxable persons established in the European Union but not in the Member State of consumption;
- c) the special regime for the distance selling of goods imported from third territories or third countries.

**Through this order are approved the following:**

- the procedure for highlighting and paying the amounts representing VAT due by the taxpayers who use the special regimes;
- the procedure for refunding the amounts representing the VAT paid in addition by the taxpayers who use the special regimes;
- the decision regarding the ancillary fiscal obligations representing interest and penalties for delay related to the amounts due as a result of the use of special regimes;
- application for refund of value added tax paid in addition by taxpayers using the special schemes or granting the related interest;
- the decision to reimburse the value added tax paid in addition by the taxpayers who use the special or interest granting regimes;

- the decision to reject the application for a refund of the value added tax paid in addition by the taxpayers who use the special schemes or to grant the related interest.

**The Law no. 5/2022 for the ratification of the Multilateral Convention for the implementation into double tax treaties of the provisions against base erosion and profit shifting**, opened for signature and signed by Romania in Paris, at 7 June 2017 has been enacted.

Amendments to double tax treaties can be brought through the Multilateral Convention. Therefore, following its entry into force, it is recommended to check the provisions of the Multilateral Convention against each relevant double tax treaty, in order to determine the applicable tax treatment.

For further questions, please contact us.



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