

## CMS: Romania enacts major tax amendments



**Romania's parliament and Government recently approved significant amendments of the domestic tax law regime. The following article identifies the changes they have brought to the Tax Code.**

### **Law no. 285/2018**

Law no. 285/2018, which came into force on 6 December 2018, has modified the definition of the term “building” in the local tax section of the Tax Code to include the pillars of wind turbines. As a result, wind farm owners must pay a building tax ranging between 0.2% and 1.3% per year on the value of these pillars.

### **GEO 114/2018**

On 29 December 2018, Government Emergency Ordinance no. 114/2018 (GEO 114/2018), which adopted significant measures affecting several industrial fields, was published in the Official Gazette, and has entered into force. This GEO introduces the following key tax amendments:

#### ***Tax exemptions for employees in the construction sector***

From 1 January 2019 to 31 December 2028, individuals working for employers that carry out activities under the NACE code 41.42.43, section F – Construction, or in the fields of manufacturing construction materials under the following NACE codes: 2312, 2331, 2332, 2361, 2362, 2363, 2364, 2369, 2370, 2223, 1623, 2512, 2511, 0811, 0812, 711 are exempt from personal income tax.

The exemption will apply if at least 80% of the employer’s turnover is derived from the above-mentioned activities. The turnover will be determined from the beginning of the year, including the month when the exemption is applied.

To be able to apply for this exemption, individuals must have gross income of between RON 3,000 (EUR 638) and RON 30,000 (EUR 6,380) received through an employment agreement.

Furthermore, for individuals working in the construction sector under an employment agreement from 1 January 2019 to 31 December 2028, the social security contribution rate will be reduced by 3.75%. Also, during the same period, these individuals are exempt from making health insurance contributions.

This law also impacts the labour insurance contribution due by the employer, which has been reduced to approximately 0.34%. The above tax incentives for the construction sector apply from January 2019.

### ***Health insurance contribution for dividend income***

The GEO clarifies that any income from dividends taken into consideration for the calculation of the health insurance contribution is the income distributed and received beginning in 2018. Dividends distributed before 2018 but received in 2018 are excluded.

### ***VAT reverse charge mechanism***

The application of the VAT reverse charge mechanism has been prolonged until 30 June 2022 for the following: supplies of cereals and industrial crops, transfer of allowances to emit greenhouse gases, supplies of electricity, green certificates, mobile telephones, integrated circuit devices, game consoles, tablet PCs and laptops.

### ***Excise duties on cigarettes***

Excise duties on cigarettes have been increased in total for 2019 from RON 457.71 (EUR 97) per 1,000 cigarettes to RON 483.74 (EUR 103) per 1,000 cigarettes. The specific excise duty on cigarettes for the period from 1 January 2019 to 31 March 2019 has been increased from RON 337.727 (EUR 72) per 1,000 cigarettes to RON 372.73 (EUR 79) per 1,000 cigarettes.

### ***Local taxes***

If a local council does not take a decision regarding local tax indexing within at least three working days before the end of the budgetary year, the maximum levels of local taxes provided under the Tax Code, and indexed in accordance with the legal provisions, will apply the following year.

## **Law no. 13/2019**

On 10 January 2019, Law no. 13/2019 for the approval of Government Emergency Ordinance no. 89/2018 was published and went into force, and includes the following changes:

### ***5% VAT reduction***

Starting 13 January 2019, the reduced VAT rate of 5% is now also applicable to the following:

- Transport services by train or historic steam vehicles on narrow lines used for tourism or leisure;
- Transport services by way of cable installations (cable car, chair or ski lift) used for tourism or leisure;
- Transport services with vehicles having animal traction, used for tourism or leisure; and
- Transport services with boats used for tourism or leisure.

### ***Excise duty exemptions for apple and pear ciders***

Note that this exemption is only applied under certain conditions.

## **Law no. 30/2019**

On 17 January 2019, Law no. 30/2019 for the approval of Government Emergency Ordinance no. 25/2018 went into force and introduces the following amendments:

### **New interest deductibility thresholds**

Starting 1 January 2019 (or the first day of the fiscal year), borrowing costs that are higher than the deductible threshold of EUR 1,000,000 are deductible for the period in which they were incurred up to 30% of the calculation base.

The calculation base is the difference between the gross accounting profit and the tax-exempt income to which corporate income tax, exceeding borrowing costs and deductible tax depreciation is added back. If the calculation base is zero or negative, the borrowing costs exceeding the deductible threshold of EUR 1,000,000 cannot be deducted in the respective fiscal period and will be carried forward indefinitely.

Exceeding borrowing costs represent the amount by which the borrowing costs of a taxpayer exceed interest revenues and other economically equivalent revenues that the taxpayer receives.

Also, the right to deduct the exceeding borrowing costs for entities that have ceased to exist as a result of divisions or mergers would be carried forward by the newly formed entity or entities.

#### ***New registry of non-profit / religious organisations for sponsorships***

Romanian entities or individuals that sponsor non-profit entities or religious organisations (NGOs) can deduct the corresponding amounts from their corporate, microenterprise, or personal income tax only if these NGOs are registered with the Romanian Tax Authority (ANAF) registry at the moment the sponsorship agreement is concluded.

A NGO's registration application will be processed if the following conditions are met:

- The NGO performs its activity in the field for which it was set up;
- All tax compliance obligations have been met;
- The NGO does not have outstanding tax obligations (of more than 90 days);
- The annual financial statements have been submitted according to the law;
- The NGO has not been declared inactive according to the provisions of the Romanian Tax Procedure Code.

#### ***Individual income tax directed to sponsorships or private scholarships***

Romanian tax residents who are subject to personal income tax, irrespective of the categories of income, may direct 3.5% of their income tax to support NGOs or for private scholarships. The NGOs should be registered in the public registry mentioned above. Also, individuals who receive income from abroad can direct 3.5% of their annual income tax. (Previously, taxpayers were able to direct 3.5% of the annual income tax only if allocated to NGOs that provided authorised social services.)

#### ***Ending the public list of individual bad debtors***

ANAF's obligation to publish online a list of taxpayers with outstanding tax liabilities exceeding RON 100,000 (EUR 21,246) in the case of individuals carrying on independent activities, and RON 15,000 (EUR 3,187) in the case of other individuals, has ended.

#### ***VAT adjustment for bad debts***

Previously, the Tax Code provided that the VAT adjustment for bad debts can be applied only in the case where a

definitive decision is issued by a judge for closing the bankruptcy procedure of a debtor.

Starting 1 January 2019, however, the VAT adjustment can be performed starting from the moment when the bankruptcy procedure is opened, based on a judge's decision. If a bankruptcy procedure has begun and is not yet finalised, the VAT adjustment can also be applied beginning January 1.

***VAT on apartments or houses within the framework of social policy***

The conditions for the reduced VAT of 5% in transactions with apartments and houses with a usable surface up to 120 sqm and a value of up to RON 450,000 (EUR 96,000) have been amended so that an individual can acquire more than one property that qualifies for the reduced VAT rate. In this case, the surface of the land on which the property is built is no longer restricted to 250 sqm or less.

In addition to tax amendments, *Government Emergency Ordinance no. 114/2018* introduced measures that affect several Romanian industrial sectors. Details can be found [here](#) and [here](#).

**For more information on how the above tax changes will affect you, please contact [Roxana Popel](#) or [Andrei Tercu](#).**