

Rödl & Partner

NEWSLETTER ROMANIA

EXPERT ADVICE

No. 1/
July 2022

A summary of the latest fiscal news and legislative changes in Romania

www.roedl.com/romania | www.roedl.com/ro



Read in this issue:

→ Corporate Income Tax

→ Microenterprise income tax

→ Income tax and social contributions

→ Withholding Tax

→ Value-Added Tax (VAT)

→ The excise duty and other special duties

→ Local taxes and duties

→ Other regulations

→ Corporate Income Tax - the amendments will enter into force on 1 January 2023

- Tax exemption of reinvested profit. NEW: It now benefits from tax exemption also the profit invested in assets used in production and processing and assets representing refurbishment.
- The dividend tax rate is increased from 5% to 8% for dividends distributed / paid between Romanian legal entities and for those distributed / paid to privately managed pension funds and / or voluntary pension funds - the 8% rate will apply dividends distributed after January 1, 2023.

→ Microenterprise income tax - the amendments will enter into force on 1 January 2023

- The regime becomes optional;
- The cap for the revenues obtained during the previous year was reduced from Eur 1,000,000 to Eur 500, 000; for fiscal year 2023, the revenues taken into consideration for establishing the cap of Eur 500,000 euro, in the lei equivalent, as well as the other elements constituting the tax base, are those registered in accordance with the accounting regulations applicable on December 31, 2022;
- The requirement that microenterprises must have at least one employee was established, situation in which the 3% tax rate was eliminated;
- It established requirement that the same shareholder/associate holds shares in maximum three microenterprises, in the case of shareholders/associates holding more than 25% of the amount/number of shares or voting rights;
- The requirement that the microenterprise has one employee is deemed met, only if the suspension period is shorter than 30 days and is limited to only one case of suspension and for a period of maximum 30 days, in order for this requirement of having one employee to be deemed met;
- It excluded from the scope of application of the tax on the revenues derived by microenterprises, legal persons who conduct activities: in the banking field, in the insurance and reinsurance field, in the capital market field, including brokerage activities in these sectors, in the gambling field, as well as the Romanian legal persons who conduct activities of exploration, development, exploitation of oil and natural gas deposits;
- It established a limit of 20% for the revenues obtained from advisory and management services;

- It established a rule of deducting from the tax base the dividends received from EU Member States, by microenterprises, if certain requirements are met;
- It established the order of deducting from the tax on the microenterprises' revenues the amounts representing sponsorships intended to support nonprofit entities, place of worship, expenses for UNICEF and other international organizations, as well as acquisitions of electronic fiscal cash registers commissioned;
- The deadline for submitting the informative declaration concerning the beneficiaries of the assets/services/sponsorships was established for, and including, the 25th of the month following the first quarter for which the profit tax is due;
- It clarified the amount of the tax to which the tax reduction regulated by Government Emergency Ordinance 153/2020 is applied.

→ Income tax and social contributions

- It abrogates the provisions pursuant to which natural persons who perform seasonal activities such as those stipulated by Art. 1 of Law 170/2016 on the tax specific to certain activities, during a year, are exempt from the payment of the tax for the salary income and income similar to salaries. Respectively Law 17-/2016 is abrogated as from January 1, 2023.
 - It revised the regulation concerning the award of tax facilities in the construction sector, with respect to the requirement regarding the computation of the turnover, in the sense that the declaration considers information/date of the current year only.
 - It amended the cap up to which tax facilities are granted in the construction sector, in the agricultural sector and in the food industry, i.e., from lei 30,000, monthly, to lei 10,000 monthly, inclusively
- For the share of the monthly gross revenue exceeding lei 10,000, tax facilities will not apply;
- In the construction sector, as well as in the agricultural sector and in the food industry, the tax facilities will only benefit natural persons who derive salary income and income similar to salaries, pursuant to individual employment agreements concluded with employers that meet the requirements stipulated by Art. 60 item 5 and item 7 of the Fiscal Code. This provision will come into effect on January 1, 2023 and applies starting with the income related to January 2023.
 - It amended the cap up to which the taxpayers determine the annual net revenue based on income standards, i.e. from Eur 100,000 to Eur 25,000. This amendment concerns taxpayers who derive revenues from independent activities, other than revenues from

liberal professions, obtained from the provision of professional services, pursuant to special normative acts regulating the organization and exercise of such profession.

- For salary income and income similar to salaries, it introduces a monthly cap for non-taxable income which is also not included in the basis for the calculation of mandatory social insurance contribution, of maximum 33% of the base salary for the position held, pursuant to the conditions provided by the law, for the following:
 - a) additional considerations received by the employees under the mobility clause pursuant to the law, of maximum 2.5 or the legal level established for the assignment/secondment allowance, by Government decision, for the staff of public authorities and institutions;
 - b) the equivalent value of the food offered by the employer for its own employees, as stipulated in the employment contract or in the internal regulation, up to the maximum value, in accordance with the legal provisions, of a meal voucher/person/day, provided on the granting date, in accordance with the legislation in force;
 - c) accommodation and equivalent value of the rent for the accommodation/housing spaces provided by the employers to their own employees, as stipulated in the employment contract or in the internal regulation, up to a maximum non-taxable amount of 20 % of the minimum gross base salary per country, the payment of which is guaranteed/month/person, under certain conditions provided by the law;
 - d) the equivalent value of the touristic and/or treatment services, including the transportation, during the vacation period, for their own employees and their family members, as stipulated in the employment contract, in the internal regulation, or received pursuant to certain special laws and/or funded from the budget, up to a maximum amount established per year, for each employee, representing the level of a gross average salary income used to establish the state social insurance budget for the year during which these were granted;
 - e) contributions to a voluntary pension fund made in accordance with Law 204/2006, as subsequently amended and supplemented, and those representing contributions to voluntary pension schemes, qualified as such in accordance with the legislation regarding voluntary pensions, by the Financial Supervisory Authority, managed by authorized entities established in states members of the European Union or belonging to the European Economic Area, incurred by employers for their own employees, within the limit of Eur 400, annually, for each person;
 - f) voluntary health insurance premiums, as well as the medical services provided based on a subscription, incurred by employers for their own employees, in order to ensure that, at the end of the year, the lei equivalent of the amount of Eur 400 is not exceeded, for each person;

g) the amounts allocated to employees who carry out remotely work activities for covering the expenses incurred with utilities at the place where the relevant activities are carried out, such as electricity, heating, water and data subscription, and for purchasing furniture items and office equipment, within the limits established by the employer pursuant to the employment agreement or the internal regulation, within the limit of a monthly cap of lei 400 corresponding to the number of days from the relevant month on which the relevant natural person carries out its activity remotely.

- For the part exceeding the monthly non-taxable limit of 33% from the base salary corresponding to the position held, income tax and mandatory social security contributions will be owed.
- The employer providing the relevant income/incentives establishes the order in which these will be included in the monthly cap of maximum 33% of the base salary corresponding to the position held.
- The provisions of Law 72/2022 regarding the annulment of certain fiscal debts and the amendment of certain normative acts remain in force; according to this, the fiscal requalification of the amounts granted under the form of the secondment allowance, including the allowance specific for cross-border secondment, of the additional compensation granted pursuant to the mobility clause, received by employees may be established by the tax bodies pursuant to Art. 11 para. (1) of Law 227/2015 as subsequently amended and supplemented, as a result of the controls performed by the authorized

Labor Inspection bodies, establishing the delegation, secondment, cross-border secondment cases in which employees may be.

- The system for granting individual deductions in case of taxpayers deriving income from salaries at the place where the main position is held was revised.
- For income obtained from assigning the right of use over assets, other than income derived from rent and from renting for touristic purposes rooms located in private property dwelling places, the taxable income is established based on the gross income.
- An obligation has been instated to register with the relevant tax body the rental agreements concluded between the parties, and of the subsequent modifications thereto, within a term of maximum 30 days from the conclusion/occurrence thereof, except for the lease agreements ongoing on January 1st 2023, in case of which the term of 90 days from the date on which the obligation of registration thereof was instated.
- In case of income obtained from gambling, the manner of computation of the income tax remains the same, in the sense that an income brackets taxation scale is applied for each gross income, however the thresholds were amended and the taxation rates were increased (new rates are ranging between 3% and 40%).

- In case of transfer of ownership rights and of the dismemberments thereof, based on legal documents concluded inter vivos over constructions of any type and the lands related thereto, as well as on lands of any type without constructions, the tax owed will be calculated by applying the 3% and 1% rates from the value of the transaction (depending on how long the property has been owned).
 - The monthly base for calculating the social security and health insurance contributions is the minimum national gross salary guaranteed, for the income obtained pursuant to full-time or part-time individual employment agreements the level of which is below the level of the minimum national gross salary guaranteed. Thus, the income taken into consideration will be the minimum national gross salary in force for the month for which the contributions are owed not the income obtained by the employee, with a few exceptions.
 - The annual base for calculating the social security contribution is modified, in case of persons obtaining income from independent activities and/or income from intellectual property rights, from one or more sources and/or income categories, the cumulated amount of which is at least equal to 12 minimum national gross salaries, in force at the date of filing of the Single Tax Return regarding the income tax and the social security, due to which this will be the income indicated by the taxpayer, which cannot be lower than:
 - a) the level of 12 minimum national gross salaries, in case of the income obtained ranging between 12 and 24 gross national minimum salaries;
 - b) the level of 24 minimum national gross salaries, in case of the income obtained exceeding 24 minimum national gross salaries.
- The measure will be effective for the income related to 2023.
- The annual base for calculating the health insurance contribution is modified in case of persons deriving income from independent activities, income from intellectual property rights, income from a collaboration with a legal entity, income from assigning the right of use over assets, income from agricultural activities, forestry and fish farming, income from investments and income from other sources, from one or several sources and/or categories of income, the cumulated amount of which is at least equal to 6 gross national minimum salaries, in force at the date of filing of the Single Tax Return regarding the income tax and the social security contributions owed by natural persons, as follows:
 - a) the level of 6 minimum national gross salaries, in case of income obtained ranging between 6 and 12 minimum national gross salaries;
 - b) the level of 12 minimum national gross salaries, in case of income obtained ranging between 12 and 24 minimum national gross salaries;

- c) the level of 24 minimum national gross salaries, in case of income earned the amount of which exceeds 24 minimum national gross salaries.

The measure will be effective for the income related to 2023

→ Withholding Tax - the amendments will enter into force on 1 January 2023

- The withholding tax rate for dividends obtained by a non-resident is increased from 5% to 8%; the 8% the new rate will be applied to dividends distributed after January 1, 2023.
- The specific withholding tax exemption for dividends obtained from pension funds defined according to the legislation of an EU or EEA Member State with which Romania has concluded a legal instrument based on the exchange of information - amendment applicable to dividends is eliminated distributed after January 1, 2023.

→ VAT - the amendments will enter into force on 1 January 2023

- Starting January 1st 2023, in addition to the exception already instated for alcoholic drinks, as such is set forth by Directive 2006/112/EC regarding the common VAT system, non-alcoholic drinks falling under codes NC 2202 10 00 and 2202 99, and non-alcoholic drinks containing sugar additives or other types of sweeteners or flavored drinks are excluded from the scope of the 9% reduced VAT rate facility.
- For the fire wood deliveries set forth in Art. 291 para. (3) letters m) and n) of the Tax Code, the 5% reduced VAT rate will apply until December 31, 2029 inclusively.
- Starting January 1st 2023, the same VAT rate, namely the 9% reduced rate, will apply both for the delivery of food products, including drinks (except for alcoholic drinks and non-alcoholic drinks containing sugar additives or other types of sweeteners or flavored drinks), intended for human and animal consumption, as well as for restaurant and catering services and for hotel accommodation activities.
- Starting January 1st 2023, the scope of application of the 5% VAT reduced rate for the sale of dwelling places to natural persons will be limited, as part of the social policy, in the sense that natural persons may only benefit from this facility once, namely they are allowed to purchase, individually or in common with another natural person/other natural persons, only one dwelling place the amount of which does not exceed the amount of lei 600,000, VAT excluded, at the reduced VAT rate of 5%.

- The deliveries of chemical fertilizers and chemical pesticides, such as those normally used in agricultural production, will benefit until December 31, 2031 inclusively, from the 9% reduced VAT rate facility.
- Natural persons who concluded inter vivos legal documents having as subject matter the payment in advance for the acquisition of dwelling places at a reduced VAT rate of 5%, before January 1st 2023, will benefit from the application of the VAT reduced rate in 2023 in accordance with the legal requirements in force at the date of conclusion thereof.

→ The excise duty and other special duties – the amendments will enter into force on 1 January 2023

- Starting August 1st 2022, the level of the total excise duty on cigarettes will be increased, from lei 563.97/1,000 cigarettes to lei 594.97 lei/1,000 cigarettes and a new calendar for the gradual increase of the level of the total excise duty on cigarettes will be adopted, considering the necessity of observing the European Union legislation in the field of tobacco products, securing budget revenues and ensuring the fiscal predictability necessary in the relevant sector.
- The ad valorem legal percent of the excise duty applied over the retail sale price for the cigarettes released for consumption will be diminished by one percentage point per year, starting August 1st 2022, due to which this will be of 10% in 2025.
- The amount of the minimum excise duty for cigarettes and of the excise duty on alcohol and alcoholic drinks will be increased in accordance with annex no. 1 to the Emergency Ordinance.
- The provisions regarding the increase of the level of the excise duty based on the increase of the consumer prices for fine-cut tobacco intended for rolling cigarettes, other types of smoking tobaccos, cigarettes and cigars, tobacco contained in heated tobacco products are eliminated;
- The provisions related to increasing the level of the excise duty based on the increase of the consumer prices for liquids containing nicotine are eliminated;
- For the period from January 1st, 2023 to December 31st, 2023 inclusively, for leaded gas, unleaded gas and diesel, the rate laid down in column no. 4 of annex no.1 to Title VIII - Excise Duties and Other Special Taxes of Law no. 227/2015 will not be increased depending on the increase in consumer prices over the last 12 months, calculated in September 2022, compared to the period from October 2014 to September 2015. If, for the period from January 1st, 2023 to December 31st, 2023, the rate of excise duties for these products indicated under entry numbers 10 to 12 of the annex indicated above, is lower than the minimum rate laid down in Table A of annex I to Council Directive 2003/96/EC of October 27th, 2003 regarding the restructuring of the Community framework for the taxation

of energy products and electricity, the RON equivalent of which is determined using the RON/EUR exchange rate published in the Official Journal of the European Union on the first business day of October 2022, the

minimum rate laid down in the Directive will apply.

→ Local taxes and duties – the amendments will enter into force on 1 January 2023

- The phrase “mixed-use building” is eliminated in order to simplify the manner of calculation of the building tax.
- A new manner of calculating the taxable amount for residential/non-residential buildings based on the amounts contained in the Market Surveys regarding the indicative amounts regarding real estate in Romania is adopted, as follows:
 - a. in case of residential buildings, the minimum quota is 0,1%;
 - b. in case of non-residential buildings, the minimum quota is 0,5%.
- If the Market Surveys on the indicative values of real estate in Romania, administered by the Romanian Public Notaries National Union, do not contain information on the buildings or land covered by these buildings located in a certain administrativeterritorial unit, the calculation of the tax on buildings will apply by reference to the last value of the building registered in the database of the tax authority, on December 31st, 2022.
- The information included in the Market Studies regarding the indicative values regarding real estate properties in Romania, managed the Romanian Public Notaries National Union, will be published on the official websites of the Ministry of Public Finance and Ministry of Development, Public Works and Administration.
- Clarifications were published with respect to the manner of computation of the tax on land recorded in the agricultural registry under the category of use of construction yards by eliminating from the scope of taxation areas covered by buildings.
- Clarifications were published with respect to the manner of computation of the tax on land recorded in the agricultural registry under the category of use of construction yards by eliminating from the scope of taxation areas covered by buildings.

→ Other regulations

- The turnover threshold starting from which legal persons who carry out retail and wholesale trade activities, as well as the ones who carry out activities consisting in the provision of services, have the obligation to accept as means of payment debit, credit or prepaid cards is modified from Eur 50,000 to Eur 10,000 in the lei equivalent. The measure will be effective January 1st, 2023.

Contact for further information



Bogdan Frățilă
Attorney at Law
Country Managing Partner
T +40 (21) 310 21 62
F +40 (21) 310 21 72
bogdan.fratila@roedl.com



Andreea Stănică
Head of Tax
Associate Partner
T +40 (21) 230 22 75
F +40 (21) 232 48 35
andreea.stanica@roedl.com

Imprint

Newsletter Romania | July 2022

Publisher:
Rödl & Partner Romania
Calea Floreasca No. 55
GRAND OFFICES, 4th floor, District 1
014453 Bucharest
Phone: +40 21 2302 275
E-Mail: bucharest@roedl.com
www.roedl.com/romania
www.roedl.com/ro

This Newsletter offers non-binding information and is intended for general information purposes only. It is not intended as legal, tax or business administration advice and cannot be relied upon as individual advice. When compiling this Newsletter and the information included herein, Rödl & Partner used every endeavor to observe due diligence as best as possible, nevertheless Rödl & Partner cannot be held liable for the correctness, up-to-date content or completeness of the presented information. The information included herein does not relate to any specific case of an individual or a legal entity, therefore, it is advised that professional advice on individual cases is always sought. Rödl & Partner assumes no responsibility for decisions made by the reader based on this Newsletter. Should you have further questions please contact Rödl & Partner contact persons.

The entire content of this Newsletter and the information available in the internet is intellectual property of Rödl & Partner and is protected by copyright. Users may only download, print or copy the content of this Newsletter for their own purposes. Each change, reproduction, distribution or public communication of its content or parts of the content, whether online or offline, require the prior written consent of Rödl & Partner.