

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

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Law no. 296/2023 on certain budgetary measures to ensure Romania's long-term financial sustainability was published in the Official Journal no. 977/2023 on Friday, October 27, 2023.

The main amendments concern the Tax Code, with impact upon several taxes and duties, and are detailed herein below:

## → A. Corporate income tax – effective as of January 1, 2024:

Taxpayers, save for the ones referred to in Article 15, who register during the previous year a turnover higher than EUR 50 million and determine a corporate tax, accumulated from the beginning of the fiscal year until the end of the calculation quarter/year, which is lower than the minimum turnover tax are obliged to pay corporate tax at the level of the minimum turnover tax;

The minimum turnover tax is calculated according to the formula:

**IMCA = 1%\*(VT – Vs – I – A)**, where:

**VT** = total revenues, determined cumulatively from the beginning of the fiscal year to the end of the calculation quarter/year;

**Vs** = revenues that are subtracted from total revenues, determined cumulatively from the beginning of the fiscal year to the end of the calculation quarter/year, and include: (i) non-taxable income referred to in Articles 23 and 24 of the Tax Code; (ii) revenues related to product inventory costs; (iii) revenues related to the costs of services in progress; (iv) revenues from the production of tangible and intangible assets which are not contained in the "I" indicator; (v) income from subsidies; (vi) income from compensation from insurance/reinsurance companies; (vii) revenues representing excise duties that were simultaneously reflected in expense accounts;

**I** = value of the purchase/production of assets recorded in the calculation quarter/year;

**A** = accounting depreciation of assets purchased/produced starting from January 1, 2024.

The assets taken into account when determining the I and A indicators shall be determined by an Order of the Ministry of Finance.

The minimum turnover tax shall be determined prior to recovery of the tax loss from previous years.

If after applying the calculation formula for determining the minimum turnover tax the result is negative, the minimum tax is zero.

For a comparison between the corporate tax and the minimum turnover tax, the corporate tax taken into account shall be adjusted as follows:

- the amounts representing sponsorship/patronage, other amounts that are subtracted according to special laws and the corporate tax reduction provided for GEO 153/2020 **are subtracted** from this tax
- the amounts representing foreign tax credit, the corporate tax exemption as per Article 22 and the corporate tax exemption as per Law no. 566/2004 on agricultural cooperation, **are not subtracted** from this tax.

As for taxpayers that apply the annual payment system with anticipated payments, the provisions shall apply for the 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> quarters of each fiscal year/amended fiscal year, by comparing the minimum turnover tax, determined according to said formula, with the anticipated payments, and the annual corporate tax shall be finally determined until the date of submission of the annual corporate tax return.

As for taxpayers that apply the annual payment system without anticipated payments, the provisions shall apply for determining the annual corporate tax.

The minimum turnover tax shall not apply to economic agents that exclusively carry out activities of distribution/supply/transport of energy and natural gas and that are regulated/authorised by the National Regulatory Authority in the Field of Energy.

## → B. Additional tax for credit institutions – effective as of January 1, 2024:

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An additional tax is established for credit institutions – Romanian legal entities and Romanian branches of credit institutions which are foreign legal entities. These credit institutions shall owe, in addition to corporate tax, **a turnover tax** calculated by applying the following tax rates on the calculation basis provided for by law:

- a) 2% from January 1, 2024 to December 31, 2025;
- b) 1% as of January 1, 2026.

The turnover includes income from interest, income from dividends and income from taxes and fees.

The turnover tax is a non-deductible expense when calculating the corporate income tax.

## → C. Additional tax for legal entities carrying out activities in the oil and natural gas sectors – effective as of January 1, 2024:

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An additional tax is established for legal entities carrying out activities in the oil and natural gas sectors and deriving a turnover higher than EUR 50 million during the previous year

The minimum turnover tax is calculated according to the formula:

**ICAS = 0.5% x (VT - Vs - I - A)**, where:

**ICAS** = specific turnover tax, determined cumulatively from the

beginning of the fiscal year to the end of the calculation quarter/year;

**VT** = total revenues, determined cumulatively from the beginning of the fiscal year to the end of the calculation quarter/year;

**Vs** = revenues that are subtracted from total revenues, determined cumulatively from the beginning of the fiscal year to the end of the calculation

quarter/year, representing: (i) non-taxable income, (ii) revenues related to product inventory costs, (iii) revenues related to the costs of services in progress, (iv) revenues from the production of tangible and intangible assets which are not contained in the I indicator, (v) income from subsidies, (vi) income from compensations from insurance/reinsurance companies, (vii) revenues representing excise duties that were simultaneously reflected in expense accounts;

I = value of fixed assets in progress incurred by the purchase/production of assets, recorded in the accounting as from January 1, 2024, respectively as from the first day of the amended fiscal year beginning in 2024;

A = accounting depreciation at the level of historical cost related to assets purchased/produced as from January 1, 2024/the first day of the amended fiscal year beginning in 2024. This indicator does not include the accounting depreciation of the assets included in the value of the I indicator.

The turnover tax is a non-deductible expense when calculating the corporate income tax.

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## → D. Microenterprise income tax – effective as of January 1, 2024:

- a. 1%, for microenterprises that derive income lower than EUR 60,000, inclusive and that do not carry out the activities referred to in letter b) point 2;
- b. 3%, for microenterprises that:
  1. derive income higher than EUR 60,000; or
  2. carry out activities contained in certain NACE codes in the IT and HORECA industry, legal activities and medical/dental assistance activities.

In the event that, during the fiscal year, the income derived by a microenterprise exceeds the level of

EUR 60,000 or the microenterprise begins to carry out the activities referred to in para. (1) letter b) point 2, starting with the quarter in which such situations are recorded, the tax rate of 3% is applicable.

In the event that, during the fiscal year, a microenterprise no longer carries out the activities referred to in para. (1) letter b) point 2 and the income does not exceed the level of EUR 60,000, starting with the quarter in which such situations are recorded, the tax rate of 1% is applicable.

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## → E. Special tax on high-value immovable and movable assets – applicable as of January 1, 2024, to:

- natural persons who own/jointly own residential buildings located in Romania if the calculated, individual or, as the case may be, cumulated taxable value exceeds RON 2,500,000;
- natural and legal persons who own cars that have to be registered in Romania, the individual purchase value of which exceeds RON 375,000. The tax is due for a period of 5 years starting from the fiscal year in which the handover-acceptance of the car

takes place/for the fraction of years remaining from the handover-acceptance of the car

- the tax rate is of 0.3% and shall apply to:
  - the difference between the taxable value communicated by the fiscal authority through the tax decision and the ceiling of RON 2,500,000, and
  - the difference between the purchase value of the cars and the ceiling of RON 375,000.

The special tax on high-value immovable and movable goods is due for the entire fiscal year.

Taxpayers shall calculate and declare the special tax up to:

- April 30 of current year (for buildings), and
- December 31 of current year (for cars).

The special tax on high-value immovable and movable goods is paid to the state budget, up to April 30, inclusive, of the year for which the tax is due, by taxpayers referred to for buildings and up to December 31, inclusive, of the year for which the tax is due, by taxpayers referred to for cars.

## → F. Personal income tax and social security contributions – effective as of November 1, 2023

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Starting with the income relating to November 2023, the personal income tax exemption granted to natural persons for income derived from wages and income assimilated to wages as a result of carrying out the activity of creating computer programs, applies to a single employer/payer, only for monthly gross incomes up to RON 10,000, the part of the monthly gross income that exceeds RON 10,000 not benefiting from tax exemptions. This exemption shall be available only up to December 31, 2028.

The personal income tax exemption granted to natural persons, for income derived from wages and income assimilated to wages as a result of carrying out activities in the construction field, applies to a single employer/payer, for monthly gross incomes up to RON 10,000, the part of the monthly gross income that exceeds RON 10,000 not benefiting from tax exemptions.

The personal income tax exemption granted to natural persons, for income derived from wages and income assimilated to wages as a result of carrying out activities in the agricultural field/sector and in the food industry, applies to a single employer/payer, for monthly gross incomes up to RON 10,000, the part of the monthly gross income that exceeds RON 10,000 not benefiting from tax exemptions.

As of July 1, 2024, any income found by tax authorities with no identifiable source shall be subject to a 70% rate applied to the adjusted taxable basis.

Starting with the income relating to November 2023, the exemptions from the payment of health contributions for income derived by natural persons carrying out activities in the construction sector, the agricultural sector and the food industry, shall be eliminated, and the share of the social insurance contributions shall be

reduced by the percentage points corresponding to the contribution rate to the privately managed pension fund provided for by Law no. 411/2004, republished, as subsequently amended and supplemented (unless employees expressly choose to continue to contribute to the 2<sup>nd</sup> pension pillar).

Starting with the income relating to the year of 2024, the social health

insurance contribution for income from independent activities shall be due at the level of the income earned, within the limit of 60 national gross minimum wages. For the other income categories, the existing ceilings remain in force.

Meal vouchers and holiday vouchers are subject to social health insurance contribution.

## → G. VAT

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### **Effective as of January 1, 2024:**

Operations subject to a reduced VAT rate of 9% (previously 5%):

- the supply of dwellings as part of social policy, including the land on which they are built:
  - the threshold of RON 600,000 has not been modified;
  - additional criteria for the definition for *“dwellings that, at the time of delivery, can be lived in as such”* have been introduced;
  - the reduced VAT rate of 5% is maintained from January 1 to December 31, 2024 for agreements concluded inter vivos from January 1 to 31 December 2023 with regard to the advance payment for the purchase of such a dwelling.
- the delivery and installation of photovoltaic panels, solar thermal panels, heat pumps and other high-efficiency heating systems: the affidavits for the application of the reduced VAT rate are amended.
- services related to access to fairs, amusement parks and recreational parks, as well as services related to access to sports events.
- services consisting in allowing access to castles, museums, memorial houses, historical monuments, architectural and archaeological monuments, zoological and botanical gardens.
- the delivery of high-quality food, with the exception of alcoholic beverages, non-alcoholic beverages falling with the NC code 2202 and food with added sugar (the delivery of the latter shall be subject to the standard VAT rate of 19%).

The VAT exemption with deduction right applicable to some operations carried out for hospital units from the public state network is removed.

### **Effective as of July 1, 2024:**

For the operations carried out between taxable persons established in Romania, only invoices that meet the conditions provided for by Government Emergency Ordinance no. 120/2021 on the RO e-Invoicing system shall qualify as (valid) invoices. The use of the electronic invoice RO e-Invoicing is not subject to the acceptance of the recipient.

→ **H. Excise duty:** excise duties for alcohol, alcoholic beverages and processed tobacco increase from January 1, 2024.

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## Contact for further information

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