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In Monitorul Oficial al Romaniei nr. 703/15.11.2013 a fost publicata Ordonanta de urgenta nr. 102/2013 pentru modificarea si completarea Legii nr. 571/2003 privind Codul fiscal si reglementarea unor masuri financiar-fiscale

Principalele prevederi sunt:

Impozitul pe profit

Contribuabilii care au optat pentru un exercitiu financiar contabil diferit de anul calendaristic pot opta ca anul fiscal sa corespunda exercitiului financiar contabil.

Pentru includerea in categoria veniturilor neimpozabile pentru anumite tipuri de venituri, au fost introduse noi conditii de detinere: detinerea a minimum 10% din capitalul social pe o perioada neintrerupta de 1 an la persoane juridice cu care Romania are incheiata o conventie de evitare a dublei impuneri.

Au fost incluse in categoria veniturilor neimpozabile:
- dividendele primite de o persoana juridica romana de la alta persoana juridica romana sau straina, platitoare de impozit pe profit, cu care Romania are incheiata o conventie de evitare a dublei impuneri;
- veniturile din vanzarea/cesionarea titlurilor de participare detinute la o persoana juridica romana sau la o persoana juridica straina situata intr-un stat cu care Romania are incheiata o conventie de evitare a dublei impuneri;
- veniturile obtinute de o persoana juridica romana din lichidarea unei alte persoane juridice romane sau straine.

Pentru cheltuielile cu sponsorizarea, s-a reglementat mecanismul de reportare si deducere, in urmatorii 7 ani consecutivi, a sumelor care nu au putut fi scazute din impozitul pe profit al anului fiscal respectiv datorita pierderilor fiscale inregistrate.

Impozitul pe venit

In cazul in care arenda se exprima in natura, iar preturile medii ale produselor agricole se modifica in cursul anului fiscal de realizare a venitului, evaluarea in lei a acestor venituri se face pe baza noilor preturi care se aplica incepand cu data de 1 a lunii urmatoare comunicarii acestora catre directiile generale regionale ale finantelor publice.

Se abroga prevederea referitoare la optiunea contribuabililor de a determina venitului net din arenda in sistem real.

In cazul veniturilor din silvicultura si piscicultura pierderea fiscala anuala inregistrata, se reporteaza si se compenseaza cu venituri obtinute din aceeasi sursa de venit din urmatorii 5 ani fiscali.

Se precizeaza tratamentul fiscal pentru veniturile obtinute din strainatate de natura celor obtinute din Romania si

Emergency Government Ordinance no 102/2013, amending Law no. 571/2003 regarding the Fiscal Code and the regulation of financial and fiscal measures, was published into Official Gazette no 703/15.11.2013

The main provisions are as follows:

Taxpayers who opted for a financial accounting year different from the calendar year can opt for the fiscal year to coincide with annual accounting year.

New holding criteria have been introduced for including certain items in non-taxable income category: holding of more than 10% of the share capital for an uninterrupted period of 1 year for legal persons with which Romania has concluded a Convention for the avoidance of double taxation.

Have been included in the category of non-taxable income:
- dividends income received by a Romanian legal person from another Romanian or foreign legal person with which Romania has concluded a Convention for the avoidance of double taxation;
- incomes from the sale / transfer of shares held in a Romanian legal entity or a foreign entity located in a State with which Romania has concluded a Convention for the avoidance of double taxation;
- incomes obtained by a Romanian legal person from the liquidation of a Romanian or foreign legal entity.

For sponsorship expenses it was regulated the mechanism carry forward and deduction in the next 7 consecutive years, the amounts that could not be deducted from corporate tax of the respective fiscal year due to tax losses recorded.

Income tax

If the rent is in kind and average prices of agricultural products change during the fiscal year the income is earned, evaluation in lei of these revenues is based on the new prices applying from the 1st of the month following their communication by General Directorates of Public Finance.

It is repealed the provision related to taxpayer option of determining net income from rent using real system.

In case of income from forestry and fishery annual fiscal loss recorded, is carried forward and it is compensated by revenues from the same source of income in the next 5 fiscal years.

It is provided the tax treatment for income obtained from abroad such as those obtained in Romania and nonneimpozabile, in sensul ca se aplica acelasi tratament fiscal ca si pentru cele obtinute din Romania.

taxable, meaning that they apply the same tax treatment as for those obtained in Romania.

Microintreprinderi

Daca ponderea veniturilor realizate din consultanta si management in veniturile totale este de peste 20% inclusiv, microintreprinderile vor trece in categoria platitorilor de impozit pe profit. In acest caz se va plati impozit pe profit cumulat de la inceputul exercitiului financiar.

Microenterprise

If the share of revenues from consulting and management in total revenues is over 20% inclusive, microenterprises will move into the category of corporate tax payers. In this case it will be payed cumulated corporate tax at the beginning of the year.

Se extinde categoria veniturilor neimpozabile pentru microintreprinderi la: veniturile din diferente de curs valutar; valoarea reducerilor comerciale acordate ulterior facturarii.

It is extended the category of non-taxable income for microenterprise at: incomes from exchange rate differences, the value of trade discounts granted after invoicing.

Baza impozabila pentru determinarea impozitului pe veniturile microintreprinderilor include si valoarea reducerilor comerciale primite ulterior facturarii, diferenta favorabila calculata in trimestrul al IV-lea intre veniturile din diferente de curs valutar si cheltuielile cu diferente de curs valutar.

The tax base for determining enterprises' income tax also includes trade discounts received after the invoice is issued, favourable difference calculated in the fourth quarter as the difference between foreign currency exchange revenues and expenses with foreign currency.

Taxa pe valoarea adaugata

Se acorda scutirea de TVA pentru refacturarile de asigurari efectuate de locatori (societati de leasing) locatarilor, respectiv sumele incasate in numele si in contul altei persoane.

Value added tax

VAT exemption is granted for insurance reinvoicing by the lessor (leasing companies) to the lessee, for amounts collected on behalf and in the account of another person.

Baza impozabila a TVA se reduce ca urmare a desfiintarii totale sau partiale a contractului pentru livrarea de bunuri / prestarea de servicii.

VAT taxable base is reduced as a result of total or partial dissolution of the contract for supply of goods / services.

Nu se ajusteaza TVA in cazul bunurilor distruse, pierdute sau furate, in conditiile in care aceste situatii sunt demonstrate sau confirmate in mod corespunzator de persoana impozabila. In cazul bunurilor furate, persoana impozabila demonstreaza furtul bunurilor pe baza actelor doveditoare emise de organele judiciare.

It is not adjusted VAT for property destroyed, lost or stolen, under the conditions that these statements are proved or confirmed properly by the taxpayer. In the case of stolen goods, taxpayer prove the theft of property by documents issued by judicial bodies.

Taxe locale

Se introduce impozitul asupra valorii constructiilor, altele decat cladirile pentru care se datoreaza impozit pe cladiri.
Constructiile sunt cele prevazute in grupa 1 din Catalogul privind clasificarea si duratele normale de functionare a mijloacelor fixe.

Local taxes

Construction tax is introduced, other than buildings, for which tax on buildings is due.
The constructions are one provided in Group 1 of the Catalogue on the classification and normal operation of the fixed assets.

Impozitul pe constructii se calculeaza prin aplicarea unei cote de 1,5% asupra valorii constructiilor existente in patrimoniul contribuabililor la data de 31 decembrie a anului anterior. Cheltuiala cu impozitul pe constructii este cheltuiala deductibila la stabilirea profitului impozabil.

Construction tax is calculated by applying a rate of 1.5% on the value of constructions existing in the patrimony of taxpayers at 31 December of the previous year. Construction tax expense is deductible in determining taxable profit.

Impozitul pe constructii se achita in doua rate egale, in datele de 25 mai si respectiv 25 septembrie.

Construction tax is to be paid in two equal instalments up to 25 May and up to 25 September.

Prevederile Ordonantei de urgenta se aplica incepand cu data de 1 ianuarie 2014.

Provision of the Emergency Government Ordinance shall apply as from 1 January 2014.

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