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In Monitorul Oficial al Romaniei nr. 938/ 30.12.2011, a fost publicata Ordonanta de urgenta nr. 125/2011 pentru modificarea si completarea Legii nr. 571/2003 privind Codul fiscal.

Principalele prevederi ale ordonantei sunt:

Impozit pe profit

Cheltuielile cu combustibilul pentru autovehicule destinate exclusiv transportului de persoane sunt deductibile in procent de 50%. In anul 2011 cheltuielile cu combustibilul au fost integral nedeductibile. Se mentin exceptii de la deducerea partiala pentru autovehicule destinate exclusiv pentru interventie, reparatii, agenti de vanzari etc. Deducerea de 50% se aplica si pentru TVA aferenta achizitiei autovehiculelor si combustibilului.

S-au introdus reguli fiscale pentru contribuabilii care aplica reglementarile contabile conforme cu Standardele internationale de raportare financiara, intre care si definirea impozitului pe profitul amanat, care nu va genera consecinte fiscale, indiferent daca este cheltuiala sau venit.

Sunt nedeductibile cheltuielile cu beneficiile acordate salariatilor in instrumente de capitaluri cu decontare in actiuni. Acestea devin deductibile la momentul acordarii efective, daca sunt impozitate conform Titlului III.

Taxa pe valoarea adaugata

Se deduce 50% din taxa pe valoarea adaugata aferenta achizitiilor vehiculelor destinate transportului rutier de persoane si, respectiv, 50% din TVA aferenta achizitiilor de combustibil pentru vehiculele aflate in proprietatea sau in folosinta contribuabilului.

Nu sunt considerate bunuri de capital activele corporale fixe amortizabile a caror durata normala de utilizare stabilita pentru amortizarea fiscala este mai mica de 5 ani. Se precizeaza mai clar ca durata de utilizare este durata de amortizare fiscala.

Exigibilitatea TVA pentru avansuri se manifesta la data platii avansului, inclusiv daca avansul este platit pentru importuri.

Persoana impozabila inregistrata in scopuri de TVA care in cursul anului calendaristic precedent nu depaseste plafonul de scutire (35.000 EUR), poate solicita scoaterea din evidenta ca platitor de TVA intre data de 1 si 10 a fiecarei luni urmatoare. Daca solicitarea radierii inregistrarii se depune in 2012, nu se ajusteaza TVA pentru bunurile achizitionate inainte de 30.09.2011.

Se anuleaza inregistrarea in scopuri de TVA a persoanelor care in deconturi de TVA aferente unei perioade de 6 luni nu raporteaza nici o livrare/achizitie.

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OUG no 125/2011 for amending Law no. 571/2003 regarding the Fiscal Code, was published into Official Gazette no 938/ 30.12.2011.

The main provisions are as follows:

Corporate tax

Fuel expenses for vehicles used for transportation of individuals are deductible in percentage of 50%. In 2011 fuel expenses were fully non-deductible. The exceptions regarding partial deduction for vehicles used exclusively for intervention, repairs, salesmen etc. are maintained. Deduction of 50% is also applied for VAT related to acquisition of vehicles and fuel.

Fiscal rules were introduced for taxpayers who apply the accounting regulations complying with International Financial Reporting Standards, among which we mention definition of deferred tax, which will not generate tax consequences, whether is expense or income.

Expenses with benefits granted to employees in equity instruments settled in shares are not deductible. They are deductible at the time of effective granting only if they are taxed under Title III.

Value added tax

50% of the value added tax related to the acquisition of vehicles used for transportation of individuals and, 50% of VAT for fuel purchases for vehicles owned or in use by taxpayer is deductible.

Depreciable fixed assets whose normal usage period determined for tax depreciation is less than 5 years are not considered capital goods. It is clarified that the utilization period is fiscal depreciation period.

VAT chargeability for advances occurs on the advance payment, including whether the advance is paid for imports.

Taxpayers registered for VAT purposes which in the preceding calendar year does not exceeds the exemption threshold (35,000 EUR), may request removal of records as VAT payer between 1 and 10 of each following month. If the cancellation request is filed in 2012, VAT is not adjusted on goods purchased before 30.09.2011.

Registration for VAT purposes of persons which for a period of 6 months did not report any delivery / acquisition in the VAT return is cancelled.

Prezentarea cazierului judiciar la inregistrarea in Registrul operatorilor intracomunitari este necesara numai pentru

asociatii semnificativi care detin cel putin 5% din capitalul social.

Se extinde aplicarea taxarii inverse la mai multe categorii de deseuri.

Impozit pe venit

Contribuabilii pentru care venitul net se determina pe baza de norme de venit si care in anul fiscal anterior au inregistrat un venit brut anual mai mare decat echivalentul in lei al sumei de 100.000 euro au obligatia determinarii venitului net anual in sistem real incepand cu anul financiar urmatoar.

Veniturile obtinute de persoanele fizice care inchiriaza intre 1 si 5 camere din locuinta proprietate personala in scopuri turistice vor fi considerate venituri din cedarea folosintei bunurilor, iar sumele se impoziteaza ca norma anuala de venit. Se poate opta si pentru impozitarea in sistem real. Daca sunt inchiriate mai mult de 5 camere veniturile sunt asimilate celor realizate din activitati independente, si se impoziteaza in sistem real.

Impozitul pe veniturile din аренда se calculeaza prin retinere la sursa de catre platitorii de venit la momentul platii venitului, prin aplicarea cotei de 16% asupra venitului net, impozitul fiind final.

Se poate opta pentru determinarea venitului net din аренда in sistem real, contribuabilii fiind obligati sa precizeze acest lucru in contractul incheiat.

Taxe locale

S-au actualizat taxele pentru mijloacele de transport in functie de capacitatea cilindrica.

Se pastreaza dreptul autoritatilor locale de a majora taxele locale cu maxim 20% fata de procentele stabilite prin Codul fiscal.

Contributii sociale

Incepand cu data de 1 iulie 2012, competenta de administrare a contributiilor sociale obligatorii datorate de persoane fizice revine ANAF.

In cuprinsul Codului fiscal sunt preluate toate prevederile cu privire la contributiile sociale datorate de persoane fizice asa cum sunt stabilite in legile speciale (ex. Legea 95/2006 privind contributia la asigurările de sanatate, Legea 263/2010 privind pensiile).

Printre modificarile efectuate mentionam ca pentru remuneratia administratorilor precum si sumele primite de reprezentantii in adunarea generala a actionarilor si in consiliul de administratie se datoreaza contributii sociale obligatorii. De asemenea, se datoreaza contributii sociale obligatorii si pentru sumele incasate din participarea salariatilor la profit sau sumele incasate de cenzori.

S-au introdus prevederi in legatura cu contributiile sociale obligatorii privind persoanele care realizeaza venituri din

Providing the criminal record at the Registry of intra-community operators is necessary only for significant associates holding at

least 5% of capital.

It is extended the application of reverse charge to several categories of waste.

Income tax

Taxpayers for which net income is determined based on income threshold and which in the previous fiscal year recorded a gross annual income higher than the equivalent in lei of EUR 100,000 are required to determine the annual net income in real system starting next financial year .

Revenues obtained by individuals who rent between 1 and 5 rooms of its own property for tourist purposes will be considered income from renting of goods and the amounts are taxed annually on tranches. It could be opted for taxation in the real system. If there are rented more than 5 rooms incomes are assimilated to those achieved from independent activities, and are taxed using real system.

Tax on income from agricultural rent is calculated using withholding method by the income payers at the time of payment of income, applying the 16% rate on net income, the tax being final.

You can choose to determine net income from agricultural rent using real system, taxpayers being required to specify this in the concluded contract.

Local taxes

Were updated the local taxes for transportation vehicles depending on engine capacity.

Local tax authorities maintain the right to raise local taxes up to 20% compared to rates set in the Fiscal Code.

Social contributions

Starting 1 July 2012, ANAF is the competent authority for administration of compulsory social contributions payable by individuals.

Fiscal Code takes over all the tax provisions on social security contributions due by individuals as set out in special laws (eg Law 95/2006 on health insurance contributions, Law 263/2010 regarding pension).

Among the changes made we mention that for manager's remuneration and as well as for the amounts received by the representatives of the general meeting of shareholders and remuneration of the board, mandatory social contributions is due. Also, mandatory social contributions are also due for amounts received from employee participation in profits or amounts received by censors.

Provisions regarding social security contributions mandatory for persons who derive income from independent activities,

activitati independente, activitati agricole si asocieri fara personalitate juridica.

agricultural activities and associations without legal personality were introduced.

Persoanele care sunt asigurate ale sistemului public de pensii nu datoreaza contributia de asigurari sociale pentru venituri din activitati independente (ex. persoanele incadrate cu contract individual de munca).

People who are insured in the public pension system does not due social security contributions for income derived from independent activities (eg person employed under individual employment contract).

Baza lunara de calcul al contributiei de asigurari sociale este venitul declarat, care nu poate fi mai mic de 35% din castigul salarial mediu brut utilizat la fundamentarea bugetului asigurarilor sociale de stat si nici mai mare decat echivalentul a de 5 ori acest castig.

Monthly basis for calculating social security contributions is declared income, which could not be less than 35% of gross average earnings used to substantiate the state social insurance budget and no higher than the equivalent of 5 times the gain.

Persoanele care realizeaza venituri cu regim de retinere la sursa a impozitului pe venit, datoreaza contributii sociale individuale in cursul anului, sub forma platilor anticipate, platitorii de venituri avand obligatia calcularii, retinerii si virarii sumelor respective.

Persons who derive income using withholding tax regime for income, they due social contributions during the year, as advance payments, income payers having the obligation to calculate, withholding and remitting the tax.

S-au introdus prevederi cu privire la contributia de asigurari sociale de sanatate pentru persoanele care realizeaza alte venituri (ex. Venituri din cedarea folosintei bunurilor, din investitii, premii si jocuri de noroc, alte surse) si care nu realizeaza venituri din activitati dependente, venituri din activitati independente, venituri din pensii si/sau indemnizatii de somaj.

Provisions were introduced on social health insurance contribution for persons obtaining other incomes (eg income from investments, from prizes and gambling, income from other sources) and which not obtain income from dependent activities, income from independent activities, income from pensions and / or unemployment benefits.

Incepand cu data de 1 iulie 2012 se abroga prevederile privind contributia la asigurarile sociale din Ordonanta de urgenta a Guvernului nr. 58/2010 pentru veniturile din conventii civile si drepturi de autor.

Starting 1 July 2012 provisions regarding social security contribution of the Government Emergency Ordinance no. 58/2010 for income from civil conventions and copyright are repealed.

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