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In Monitorul Oficial al Romaniei nr. 481/13.07.2012 a fost publicata Hotararea Guvernului nr. 670/2012 pentru modificarea si completarea Normelor metodologice de aplicare a Legii nr. 571/2003 privind Codul fiscal.

Principalele prevederi sunt:

Impozit pe profit

Sunt deductibile cheltuielile inregistrate la scoaterea din gestiune a creantelor asupra clientilor, inainte de intrarea in faliment a acestora, avand la baza un plan de reorganizare admis si confirmat printr-o sentinta judecatoreasca.

Se stabiliesc conditiile prin care vehiculele rutiere motorizate, supuse limitarii fiscale de 50%, se considera a fi utilizate exclusiv in scopul activitatii economice, caz in care se acorda deductibilitate integrala. Deductibilitatea se efectueaza pe baza documentelor justificative si prin intocmirea foii de parcurs. Limitarea de 50% nu se aplica vehiculelor care sunt utilizate exclusiv in scopul activitatii economice.

In cadrul cheltuielilor aferente vehiculelor rutiere motorizate supuse limitarii fiscale se cuprind cheltuielile direct atribuibile unui vehicul, inclusiv cele inregistrate ca urmare a derularii unui contract de leasing, cum sunt: impozitele locale, asigurarea obligatorie de raspundere civila auto, inspectiile tehnice periodice, rovinieta, chiriile, partea nedeductibila din taxa pe valoarea adaugata, dobanzile, comisioanele, diferentele de curs valutar etc.

Aplicarea limitei de 50% pentru stabilirea valorii nedeductibile la determinarea profitului impozabil se efectueaza dupa aplicarea limitarii aferente taxei pe valoarea adaugata, respectiv aceasta se aplica si asupra taxei pe valoarea adaugata pentru care nu s-a acordat drept de deducere din punctul de vedere al taxei pe valoarea adaugata (normele prevad un exemplu de calcul).

Taxa pe valoarea adaugata

Se exemplifica care sunt cheltuielile legate de vehiculele aflate in proprietatea sau in folosinta persoanei impozabile pentru care este limitata TVA. Pentru vehiculele care sunt utilizate exclusiv in scopul activitatii economice nu se aplica limitarea la 50% a deducerii TVA.

Utilizarea in scopul activitatii economice a unui vehicul cuprinde, fara a se limita la acestea: deplasari in tara sau in strainatate la clienti/furnizori, pentru prospectarea pietei, deplasari la locatii unde se afla puncte de lucru, la banca, la autoritatile fiscale, utilizarea vehiculului de catre personalul de conducere in exercitarea atributiilor de serviciu, deplasari pentru interventie, service, reparatii, etc.

Limitarea deducerii nu se aplica vehiculelor utilizate de agentii de achizitii (se defineste ce reprezinta agenti de achizitii).

In cazul vehiculelor utilizate pentru transportul angajatilor la si de la locul de munca se considera ca vehiculul este

No 7/21 August 2012

HG no 670/2012 for amending the Norms for applying Law no. 571/2003 regarding the Fiscal Code, was published into Official Gazette no 481/13.07.2012.

The main provisions are as follows:

Corporate tax

Expenses with bad debts receivables taken off balance sheet are deductible, prior to customers bankruptcy, based on a reorganization plan accepted and confirmed by a court ruling.

There were established the conditions under which motorized road vehicles subject to 50% tax limitation shall be deemed to be used exclusively for the purpose of economic activity of the taxpayer, in which case full deductibility is granted. Deduction shall be granted based on supporting documents and by preparing the roadmap. The 50% tax limitation does not apply to vehicles used exclusively for the purpose of economic activity.

The expenses related to road motorized vehicles that are subject to tax limitation include expenses directly attributable to a vehicle, including those recorded from a lease contract, such as: local taxes, compulsory auto insurance, periodic technical inspections, vignette, rents, non-deductible part of the value added tax, interests, commissions, exchange rate differences, etc.

Application of 50% limit for determining the non-deductible amount for calculating the taxable profit is made after applying the limit for VAT, that this the 50% limitation also applies to VAT for which no deductions have been granted in terms of value added tax (Norms provide a calculation example).

Value added tax

It is exemplified which are the expenses related to vehicles owned or in use by the taxpayer for which VAT is limited. For vehicles used exclusively for the purpose of economic activity the 50% limitation does not apply.

Using for the purpose of economic activity of a vehicle includes, but it is not limited to these: domestic travels or travels abroad to customers/suppliers for market research, travels to secondary locations, to the bank, to the tax authorities, using the vehicle by management staff in exercising their duties, travels to interventions, service, repairs, etc.

Limitation of VAT deduction does not apply to vehicles used by procurement agents (Norms defines what is meant by a procurement agent).

In the case of vehicles used to transport employees to and from work it is considered as that the vehicle is used for the utilizat in scopul activitatii economice atunci cand exista dificultati evidente in folosirea altor mijloace de transport adecvate.

purpose of economic activity when there are obvious difficulties in using other means of transportation.

Impozit pe venit

Similar cu impozitul pe profit, se limiteaza la 50% dreptul de deducere a cheltuielilor efectuate pentru vehiculele rutiere motorizate care nu sunt utilizate exclusiv in scopul desfasurarii activitatii, cu exceptia cheltuielilor privind amortizarea.

Incepand cu 1 ianuarie 2013, se elimina plata/retinerea de impozit anticipat in timpul anului pentru castigurile din transferul titlurilor de valoare, altele decat partile sociale si valorile mobiliare in cazul societatilor inchise.

Income tax

Similar to corporate tax, it is limited to 50% the deductibility of expenses incurred in relation to road motor vehicles which are not used exclusively for the purpose of economic activity, except for depreciation expenses.

Starting 1 January 2013, it is eliminated the payment / advance tax withholding during the year for gains from the transfer of securities, other than social parts and securities of closed companies.

Taxe locale

Locatarul nu are obligatia sa comunice locatorului pentru depunerea unei noi declaratii fiscale valoarea lucrarilor de reconstruire, consolidare, modernizare, modificare sau extindere daca acestea nu depasesc 25% din valoarea cladirii.

Se clarifica faptul ca taxa de 1% datorata pentru eliberarea autorizatiei de construire se calculeaza la valoarea de proiect declarata care include instalatiile aferente dar nu include si TVA.

Local taxes

Lessee does not have the obligation to communicate to the lessor for submitting a new local tax returns the value of reconstruction works, consolidation, modernization, modification or extension if the works do not exceed 25% of the building value.

It clarifies that the 1% fee due for the issuance of the construction authorization shall be calculated at the declared value of the project that include related instalations but does not include VAT.

Contributii sociale

Se aduc clarificari cu privire la stabilirea bazei de calcul a contributiei de asigurari sociale datorate de angajator.

Se precizeaza ca veniturile din salarii pot include atat castiguri in bani cat si/sau in natura.

Asigurarea in sistemul public de pensii si plata contributiei de asigurari sociale pentru persoanele prevazute la art. 296[21] alin. (1) lit. a) - e) (ex. Pentru PFA, persoane care realizeaza venituri din profesii libere), se face in baza unui venit ales, cuprins intre 35% din castigul salarial mediu brut pe economie si echivalentul a de 5 ori acest castig.

Social contributions

It was clarified the calculation base for social security contributions payable by the employer.

It is provided that salary income may include both cash earnings and / or in kind.

Insurance in public pension system and payment of social insurance contributions for persons referred to in art. 296[21] alin. (1). lit. a) - e) (eg for PFA, people who derive income from liberal professions) is made based on a chosen income, between 35% of gross average earnings in the economy and the equivalent of 5 times the gain.

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