

Approval of tax and customs legislation amendments

12 January 2017

In brief

The law significantly amending the Republic of Moldova's fiscal and customs legislation has been published.

Taxes and duties

Income Tax

Taxation of independent activities and professional activities in the justice sector

The tax regime applicable to independent activities and professional activities in the justice sector has been established:

- Independent activities are defined as trade activities generating income carried out individually by resident individuals without creating an organisational legal form. The tax rate is 1% of income received from independent activities, but not less than MDL 3,000.
- Professional activities in the justice sector are defined as activities carried out permanently in the organisational forms established by law, by lawyers, trainee lawyers, public notaries, bailiffs, mediators, authorised administrators, judicial experts within the offices of judicial expertise and translators. Income obtained from engaging in such activities is subject to an 18% income tax rate.

New rules on tax period

Taxpayers have the right to choose a tax period different from the calendar one. A new tax period could be used if the following conditions are met simultaneously:

- Informing the State Tax Service (STS) by providing documents about the change of tax period;
- Applying transition tax period.

The transition tax period is a period ranging between the last day of the current tax period and the first day of new tax period. During the transition period, taxation object is determined under the general rules, except for tax depreciation, the amount of which depends on the duration of the transition period. Income tax is calculated by applying the general tax rates established by the Tax Code and paid in monthly instalments.

Definition of royalty

The types of payments that are not considered royalties have been specified.

Non-taxable income

- Income obtained from selling the home base (see

below) is considered non-taxable income.

- Contributions paid to statutory capital in order to cover losses or maintaining net assets are a non-taxable source of income.

Rules on expenses deduction

Expenses related to the execution of collective bargaining agreements are deductible at the level of 0.15% of the salary fund.

New rules on capital gains

- The new concept of "home base" has been established.

The "home base" represents a property that taxpayer has owned for at least three years and has been the domicile during the three years up to the sale.

- The right to deduct capital losses in the following tax period is granted only to economic agents;
- Capital gain or loss resulted from a donation agreement between first-degree relatives is not recognised for tax purposes;

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- New rules have been established concerning the determination and confirmation of the value base of capital assets.

Tax incentives

- Tax incentives have been extended for residents of free economic zones which reinvest in their fixed assets and / or in development of the free economic zone' infrastructure, if certain conditions are met.
- New rules have been included for applications for the tax incentive for IT sector employees. The deadline of the respective incentive has been extended to 2020.

Submitting tax return

- Resident individuals (Moldovan citizens, foreigners and stateless people) have to submit income tax returns no later than 30 April of the year following the reporting year.
- Taxpayers other than those mentioned above have to submit their income tax returns no later than the twenty-fifth of the third month following the end of the reporting period.

Personal Income Tax

- The threshold for the application of the progressive personal income tax rates of 7% and 18% is MDL 31,140;
- Allowance amounts have been increased as follows:
 - Personal allowance is MDL 10,620;
 - Major personal allowance is MDL 15,840;

- Simple allowance for dependents is MDL 2,340, except for people with disabilities, for whom the allowance is MDL 10,620.

Withholding tax

- Resident individuals' income obtained from transmitting into possession and / or usage of immovable property to other persons as per the law, as well as foreign states and international organisations, is subject to 7% withholding tax.
- Income received from supplying phytotechnical, horticultural and zootechnical products in their natural form (with some exceptions) are subject to 3% withholding tax.
- A new fiscal regime has been established for income earned by individuals from supplying goods through consignments trade units. Such income is subject to 10% withholding tax.

Value Added Tax (VAT)

VAT rates

Biofuels used for heating and hot water production are subject to 8% VAT.

New rules regarding VAT input

- Several restrictions have been introduced related to the VAT input for certain types of goods delivery and provision of services;
- The final prorata has to be approximated according to the mathematical rules up to one decimal place;
- The right for VAT input has been extended to the

latest change in the VAT regime and the corresponding method established;

- Certain specifications have been introduced regarding VAT input for services provided on a regular basis.

VAT exemption

- The VAT exemption applied to services related to operations of licence granting and patents issuance has been removed;
- New restrictions have been introduced regarding the applicability of VAT exemption for long-term tangible assets brought into the statutory capital.

Excise duties

Applicable rates

- Excise duty rates for excisable goods, except transport units, are established for a period of three years;
- Several changes have been introduced for transport units, according to their operating period.

Method of calculation

The calculation method has been established for excise duty on goods expressed in units of measure other than those in which the excise duty rates are established.

Cancelling the registration

STS has the right to initiate the procedure of cancelling the registration as an excise duty payer, for taxpayers which don't submit their excise duty returns during two consecutive months.

Tax administration

Anticipated individualised tax ruling

- This represents an administrative act issued by the STS in order to solve claims submitted by individuals and legal entities which perform entrepreneurial activity, regarding the applicability of the tax legislation on the future specific situations and / or transactions;
- Taxpayers have to submit all the relevant documents and, if needed, provide additional explanations, comments and other evidence at the request of the STS concerning the examination of such requests;
- The anticipated individualised tax ruling is mandatory for STS and other entities with tax administration attributions, if certain conditions are met;
- The deadline for issuance of anticipated individualised tax rulings is 90 days from the claim submission date, though this term can be suspended in certain cases;
- The procedure of issuing and rejecting anticipated individualised tax rulings is determined by the Ministry of Finance;
- The fee for issuing an anticipated individualised tax ruling is MDL 60,000 for large taxpayers and MDL 30,000 for other categories of taxpayers.

General conditions for sanctioning

- Taxpayers which applied the provisions of an

anticipated individualised tax ruling are to be exempted from assessment of taxes, late-payment interest and related tax sanctions;

- Infringements regarding the use of electronic tax services caused by technical breakdown, through no fault of the taxpayer, do not represent grounds for sanctions;
- Several specifications have been introduced related to tax infringements concerning the use of standard primary document forms with special regime. These are to be sanctioned with a fine equal to the amount of economic operations listed in those documents;
- A fine of MDL 200 has been established for financial institutions and other payment service providers for each case of refusal to accept budget-related payments in cash from individuals;
- A fine of MDL 3,000 has been established for notified individuals who do not submit the property declaration before the tax inspection begins.

Changes regarding tax returns

- The mandatory requirement to submit reports by automated electronic reporting methods has been extended from 1 January 2017 for:
 - taxpayers which had more than five employees as at 1 January 2016;
 - taxpayers which perform professional activity in

the justice sector for tax periods starting in 2017.

- The form and method of filling in tax returns will be established by the Ministry of Finance.

Real estate tax

Subjects and objects of taxation

- The method of determining the taxable subject for leased real estate which belongs to non-residents has been amended.
- The method for determining the finalisation degree of constructions for tax purposes has been clarified.

Rates

- The minimum and maximum rates applied for real estate for housing will be the same, regardless of their location;
- The maximum tax rate on real estate for housing, for garages and land on which they are located, fruit-growing plots with or without buildings located on them has been increased from 0.3% to 0.4%;
- The tax rate for real estate with destination other than housing, with some exceptions, has been increased from 0.1% to 0.3%.

Exemptions

The right of taxpayers to benefit from real estate tax exemption has been clarified.

The deadline for applying the transitional provisions regulated by the Law for the implementation of Title VI of

the Tax Code has been extended to 1 January 2019.

Local taxes

Rates

Local authorities are required to respect certain criteria and principles in establishing land improvement duty and the fee for the right to use local symbols.

Subjects of taxation

Individuals performing professional activities in the justice sector become subject to taxation for land improvement duty.

Object of taxation

- New provisions have been included about the average number of employees and the method of determining that number;

- The object of taxation for commercial units and / or services providers has been specified.

Exemptions

Individuals who perform independent activities are exempted from land improvement duty and tax on commercial units and / or services providers

Customs provisions and other regulations

The Customs Code

The Customs Code has been modified as follows:

- Completions and / or amendments to the Customs Code are applicable 180 days after its publication in the Official Gazette;
- The total period of stay for goods and means of transport under the temporary custom admission regime has been extended to 10 years;
- Foreign citizens can place personal goods and one transport unit under the temporary custom admission regime during their involvement in projects of development or external technical assistance under relevant international treaties;
- In the event of deadline extension for payment of import duties for importers with authorised economic operator status, the interest will not be calculated;
- The purpose and procedures for subsequent inspections have been clarified;

- AEO certificates are replaced by AEO authorisations of two types: (i) for customs simplifications, and (ii) for security and safety, which can be obtained simultaneously by applicants;
- The conditions for granting AEO authorisations have been specified and supplemented. The Customs Service is to reassess authorised economic operator status granted before the entry into force of the respective amendments.
- Certain procedures for customs post clearance inspections and customs declaration reverification have been clarified.

The fine will be of 4% of the infringement object's value for the following customs contraventions with material liability:

- For submitting customs declaration or accompanying documents containing false data about the custom regime, invoiced value, customs value,

type, code, quantity and origin of the transported goods, if this leads to total or partial relief from import duties;

- For not declaring to the customs authority the modification of goods destination compared to the initially-declared purpose when placing goods under a certain customs destination.

NB. Only if ascertainment of the contravention by the customs authorities occurred as a result of the subsequent verification, for customs declarations distributed through yellow or red customs control corridors and which have been automatically validated by granting customs release.

- Release from material and contravention liability for custom declarations distributed through yellow or red customs control corridors and which have been automatically validated by granting customs release may be granted if the person voluntarily admits and gives notice that a

contravention was committed, under certain conditions.

Combined Nomenclature

- Customs duties for certain goods are now limited to the maximum percentage values.
- The tariff heading for undenatured ethyl alcohol used for pharmaceutical production and medical purposes has been specified with a zero rate of duty (e.g. 2208 90 910).

Customs tariff law

Restrictions have been introduced regarding applicability of the exemption from customs duties for long-term tangible assets placed into the statutory capital.

Internal trade law

Traders are now prohibited from requiring invoicing / re-invoicing and / or collection of fees from suppliers.

Furthermore, traders are not entitled to return food to suppliers and are forced by law to destroy the expired food.

Law on payments for environment pollution

- The scope of the law's application has been extended to anyone generating pollutants, irrespective of the type of economic activity;

- Producers, importers and / or purchasers of the following types of goods from economic agents located in the Transnistrian region are subject to tax:

- Goods listed in Annex. 8 to the Law (e.g. mineral fuels, bituminous materials, fertilisers, etc.);
- Products packaged in certain plastic materials (e.g. caps, stoppers, capsules and other closures made of ethylene polymers for cans, bottles, etc.);
- Products packed in non-corrugated cardboard packaging (e.g. cardboard boxes and objects, paper leaflets and non-corrugated cardboard);
- Products packaged with or without aluminium foil and / or polyethylene.

- The date has been specified for determining the obligation, as well as method and terms for payment of tax for environmental pollution.

Tax rate:

- For goods listed in annex. 8 of the Law - tax is 2% of the customs value of imported goods and those purchased from economic agents in Moldova that do not have links with the budget system of the Republic of Moldova, or

2% of delivery value, excluding VAT, of goods supplied by local producers.

- For other products, the tax varies according to the product volume.

- The list of goods exempted from tax for environmental pollution has been extended.
- Sanctions for infringing requirements regarding the accuracy of calculating and paying tax for environment pollution to the budget are to be applied in accordance with tax legislation.
- The model has been approved for own statement' declarations regarding usage of the goods set out in Annex 8 as raw materials in the production of other goods that cause environmental pollution.

[Source: Law no. 281 of 16 December 2016 on amending and completing some legislative acts, Official Gazette of the Republic of Moldova no. 472-477/947 of 27 December 2016]

The takeaway

A number of important changes to the tax and customs legislation come into force as of 1 January 2017, with some exceptions

Let's talk

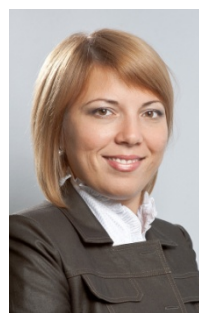
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