

Monthly tax alert

SEPTEMBER 2019



Important legislative changes with fiscal impact 6 September 2019

As it was previously announced late July in a conference by Minister of Finance, Ms. Natalia Gavriliță, the Ministry has prepared a draft of Decision for modification of legislation in order to prevent the predicted shortage in the execution of State Budget. The most important measures included in the draft was, next to others, the abolishment of interdiction for fiscal controls for the periods until 1st of January 2018, elimination of special VAT rate for HoReCa, taxation of meal tickets previously exempted of taxation with salary taxes, elimination of personal exemption for the persons which income exceeding 30 M lei per month, increasement from 20% to 50 % of the taxable base of capital gains for physical persons and to 100% for juridical entities, elimination of exemption of 500 M lei in the case of estimation of taxable revenue by indirect methods, etc.

After a series of debates and negotiations with business environment and representants of civil society, the Law no.122 dated 16 of August 2019, was been approved by the Parliament and published in Official Gazette no. 279-280 from 6 of September 2019.

Next you can find more detailed information regarding legislative changes

1. Income tax

- The right of use of personal exemption for the persons which earn more than 360 M lei per year is going to be canceled. This amount does not include earnings (incomes) subject to withholding tax according to art. 90¹ Fiscal Code. Furthermore, the persons mentioned above will have the obligation to present the annual tax return to the tax office in case they used the personal exemption during the year. Consequently, they will have the obligation to pay the difference which arise as a result of recalculation of tax obligation.
- The rate of withholding tax from the incomes of physical persons according to the art. 90 (1) Fiscal Code is going to be changed from 7% to 12%. Thus, physical persons subject to this tax will be released from the obligation to fill the tax return and to pay the difference between the rate of WHT and the final tax rate.
- The taxable base of capital gains for the physical persons is going to be changed back to 50% (instead of actual 20%) and for the companies the taxable base is going to be changed to 100%. Actually, the concept of “capital gains” will be no longer applicable for the juridical persons and the transactions with “capital assets” will be taxable according to general rules.

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2. *Value added tax and excise*

- The preferential 10% VAT rate for HoReCa introduced last year as a measure for stimulation of business in this sector is going to be eliminated. Thus, starting with 1st of January 2020 the services/goods delivered by the companies in the field of public alimentation and accommodation will be taxable at standard rate of 20% VAT.
- A new exemption for VAT and excise is going to be introduced for the goods imported by physical persons via postal deliveries. The exemption will be applicable for the deliveries which value without insurances and logistic costs are below 200 euro and the purpose importing the goods is only for personal use.

3. *Tax for the environment pollution*

- The rates of the tax for the goods which polluting the environment are going to be raised by 20% for all the tariff positions. Thus, the Annexes of the Law no.150/1998 will be updated with the new rates.

4. *Meal tickets*

The main changes for the meal tickets are:

- Nominal value deductible for taxation reason can't be higher than 45 lei per working day;
- Nominal value of meal tickets is going to be subject of taxation with social contributions;
- The exceeding value of the meal tickets is going to be taxable with all salary taxes (medical insurance, social insurance and income tax).

5. *Fiscal administration*

Attention: starting with the date of publication of Law no.122/16.08.2019, the interdiction for fiscal controls for the period before 1st of January 2018 is abolished.

The exemption of 500 M lei for the physical persons, subjects of indirect methods of income (wealth) estimation, is going to be abolished. The estimated taxable income will be adjusted only with amount declared by the individuals according art.226⁷ till 31 of December 2012.

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Summary:

On 6th of September 2019, in Official Gazette no. 279-280 the Law no. 122 dated 16 of August 2019 was published. Once the Law will enter into force, the following major legislative modifications with fiscal impact will going to be operated:

- The interdiction for fiscal controls for the period before 1st of January 2018 is going to be abolished.
- The right of use of personal exemption for the persons which earn more than 360 M lei per year is going to be canceled;
- The rate of withholding tax from the incomes of physical persons according to the art. 90 (1) Fiscal Code is going to be changed from 7% to 12%;
- The concept of “capital gains” will be no longer applicable for the juridical persons and the transactions with “capital assets” will be taxable according to general rules, while the taxable base of capital gains for the physical persons is going to be changed back to 50%;
- The preferential rate of 10% VAT for HoReCa is going to be eliminated;
- The rates of the tax for the goods which polluting the environment are going to be raised by 20%;
- Nominal value of meal tickets (not more than 45 lei) is going to be subject of taxation with social contributions, while the exceeding of the meal tickets is going to be taxable with all salary taxes.

The above legislative changes are going to enter into force starting with 1st of January 2020, excepting the elimination of interdiction for fiscal controls which enter into force at the date of publication of the Law, meaning on 6 of September 2019, and elimination of exemption of 500 M which is going to enter into force on 1st of January 2022.

Don't hesitate to contact us if there is any related aspect you would like to discuss.

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