

Amendments regarding the tax exemption for reinvested profits, tax on constructions and other updates

29 May 2014

In brief

The Methodological Norms for applying Law no. 571/2003 regarding the Fiscal Code has been amended and supplemented by the publication of Government Decision no. 421 dated 20 May 2014, in relation to profit tax, tax on constructions, value added tax and excise duties.

In detail

Corporate taxes

Tax provisions for the application of IFRS accounting rules

Rules are provided for taxpayers adopting IFRS accounting standards, in cases where the fair value is used as deemed cost.

The rules provide clarification regarding the fiscal value of fixed assets and the tax treatment of revaluation reserves. Clarification is also provided regarding the tax treatment of revaluation reserves / realised revaluation surplus, following adoption of IFRS.

Tax exemption for reinvested profits

The tax exemption for reinvested profits is clarified in the following areas:

- The manufacturing of technological equipment refers to internal production.
- The manner of determining the gross profit in view of applying the exemption.
- For technological equipment which is under financial lease and is put into operation during the period in which the tax incentive is applicable, the lessee can benefit from profit tax exemption.
- The tax incentive also applies for technological equipment in progress, registered and put into operation during the period in which the tax incentive is applicable. For equipment partially recorded as assets in progress before 1 July 2014, the incentive may not be applied.
- It is mentioned that technological equipment is considered to be new (and may qualify for the exemption) if it has not been used before the acquisition date.

The Norms also provide examples for calculating the profit tax exemption for reinvested profits.

Withholding tax

For the purposes of alignment with the Fiscal Code provisions, the Norms related to the refund procedure for the excess withholding tax paid in the case of non-residents are abrogated. Refunds are to be made in line with Fiscal Procedural Code provisions.

Tax on constructions

The method for determining the taxable base has also been clarified. This includes the value of constructions as

recorded in the accounts, without taking into consideration: constructions recorded in off-balance sheet accounts, the value of fixed assets in progress, the value of state-owned buildings recorded in the corresponding construction accounts and the value of modernisation works, communicated to the owner, as per the Fiscal Code provisions.

The value of buildings exempted as per the Fiscal Code that do not / will not come within state property should not be deducted from the taxable base. Also, no adjustments should be made to the taxable base in relation to the difference between the value registered in accounting and the value declared for local tax purpose.

Taxpayers applying the IFRS accounting regulations, which depreciate the tangible assets used in activities of exploration and production of oil, gas and other minerals, according to specific accounting policies and rules, do not include in the taxable base any written-off constructions.

Value added tax

If the VAT treatment has not been correctly used by suppliers, they are obliged to

correct the invoices even if the suppliers / beneficiaries are in any of the following situations: they are inactive, suspended from the Registry of Commerce, deleted from the Registry of Commerce or had their VAT registration number cancelled under fiscal law. Failure to correct invoices issued under the standard taxation regime entails for the beneficiaries of the goods / services subject to simplification measures the loss of their VAT deduction right related to these acquisitions.

Excise duties

Diesel fuel supplied to vessels and boats may be marked and coloured before being imported.

The average quarterly output of excisable goods required for tax warehouses destined exclusively for use in fuel supplies to vessels, boats and aircraft has been decreased from 100 tons to 30 tons.

Complete denaturing of ethyl alcohol has to be performed in line with European Union denaturing requirements.

[Source: Romanian Official Gazette no. 384 dated 23 May 2014]

The takeaway

Tax exemption for reinvested profits

It is clarified that the gross accounting profit based on which the exemption is calculated should not include internal or external financing of the respective assets.

Under a financial lease agreement, the lessee may apply the tax incentive on reinvested profits.

The facility is also applicable for technological equipment in progress which is put into operation during the period 1 July 2014 – 31 December 2016.

Tax on constructions

Clarifications are brought regarding the taxable base.

Value added tax

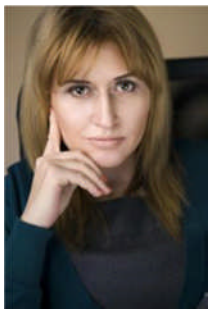
Beneficiaries of goods / services subject to simplification measures are not allowed to exercise the VAT deduction right related to these acquisitions if the invoices issued under the standard taxation regime have not been corrected.

Excise duties

Diesel fuel supplied to vessels and boats may be marked and coloured before being imported.

Let's talk

For a deeper discussion of how this issue might affect your business, please contact:



Mihaela Mitroi, *Partner*
mihaela.mitroi@ro.pwc.com



Ionut Simion, *Partner*
ionut.simion@ro.pwc.com



Daniel Anghel, *Partner*
daniel.anghel@ro.pwc.com

PwC Romania

Lakeview Building

301-311 Barbu Văcărescu Street

Sector 2, Bucharest

Tel.: + 40 21 225 3000

Fax: + 40 21 225 3600