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# *Amendments to the Fiscal code*

22 April 2015

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## *In brief*

Law no. 571/2003 regarding the Fiscal Code has been amended and supplemented by the publication of Government Emergency Ordinance no. 6/ 2015.

This Ordinance introduces provisions regarding the taxation of income from the transfer of immovable property from personal patrimony, as well as clarifications regarding advance income tax payments for rental income.

This Ordinance introduces various provisions regarding the tax treatment applicable to interest revenues / revenues from freelancing activities derived by legal entities / individuals resident in the European Union or the European Economic Area.

This Ordinance also extends the application of the reduced 9% VAT rate.

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## *In detail*

### ***Taxation of income from the transfer of immovable property from personal patrimony***

- New measures have been introduced in respect of the obligation of the competent tax authorities to issue tax decisions by means of which the tax due is calculated and collected for the transfer of property rights obtained through court order, through other procedures or in the case of forced execution. The tax due has to be paid within 60 days from communication of the tax decision.
- The obligation on Land Registry Office officials to check whether the tax on the income obtained from

the transfer of immovable property has been paid in order to register in the Land Registry Office the rights obtained through such transfers has been eliminated.

### ***Advance tax payments for rental income***

- In the case of dissolution of a rental agreement during the fiscal year, with the rent representing the equivalent in Romanian currency (RON) of an amount in foreign currency, the advanced tax payments are recalculated by the competent tax authorities, at the tax payer's request, upon submission of supporting documents.
- The annual income is determined based on the exchange rate published by

the National Bank of Romania on the day prior to communication of the tax decision.

- In the above situation, annual tax returns are not submitted for the income obtained.

### ***Withholding tax***

- New measures have been introduced for the purpose of eliminating the discriminatory treatment applied to non-residents deriving interest revenues / revenues from freelancing activities in Romania which are subject to withholding tax applied to the gross value of the income. Romanian residents under similar circumstances may have a lower tax burden due to the deduction of potential expenses

connected to such revenues. Thus, non-residents have the following options:

- revenues derived from Romania, by way of declaring and paying corporate income tax for the taxable profit related to these revenues according to the provisions of Title II of the Fiscal Code.
- non-resident individuals deriving revenues from freelancing activities in Romania may opt for the regularisation of the withholding tax applied, by way of declaring and paying income tax for the taxable income related to these revenues, in accordance with the provisions of Title III of the Fiscal Code.
- The tax withheld and paid for interest revenues / revenues from freelancing activities would be considered as an advance payment in relation to the corporate income tax / income tax.
- Where the income beneficiary does not make available its tax residency certificate and, consequently, the payer withholds 16% in accordance with the Romanian Fiscal code, the amount withheld can be deemed as an advance payment in relation to corporate income tax / income tax only if the tax residency certificate is subsequently obtained.
- The possibility for regularisation of the

withholding tax is only applied in the case of revenues derived from Romania by residents of member states of the European Union or the European Economic Area, provided that a Convention for the Avoidance of Double Taxation or a legal instrument for the exchange of information is concluded between Romania and those states.

#### **Value added tax**

Starting with 1 June 2015, the 9% VAT rate will be also applied to restaurant and catering services, as well as to the supply of the following goods:

- food and non-alcoholic drinks for human and animal consumption;
- live animals and birds from domestic species;
- seeds, plants and ingredients normally used in preparing food;
- products normally used to complete or replace food;

*[Source: Government Ordinance no. 6 /2015, Romanian Official Gazette no. 250 dated 14 April 2015]*

#### **The takeaway**

##### **Taxation of income from the transfer of immovable property from the personal patrimony**

- Clarification has been provided regarding the obligation of tax authorities to issue a tax decision for situations where the property right is not obtained through a document authenticated by

a notary public, through court order or by forced execution.

- Land Registry Office officials are no longer obliged to check whether the tax on the income obtained from the transfer of immovable property has been paid.

##### **Advance tax payments for rental income**

- Clarification has been provided regarding the method of calculation of advance tax payments in the case of dissolution, during the fiscal year, of rental agreements with the rent representing the equivalent in RON of an amount in foreign currency.

##### **Withholding tax**

- Legal entities / individuals resident in member states of the European Union or the Economic European Area deriving interest revenues / revenues from freelancing activities in Romania may opt for the regularisation of the withholding tax by way of declaring and paying in Romania the corporate income tax / income tax related to the revenues obtained.
- The tax withheld and paid is deemed as advance payment in connection with corporate income tax / income tax.

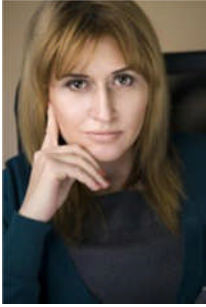
##### **Value added tax**

As of 1 June 2015, the reduced VAT rate of 9% will be applied for food, non-alcoholic drinks and public alimentation services.

The provisions of the Government Emergency Ordinance no. 6/2015, enter into force as of 1 June 2015.

## **Let's talk**

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



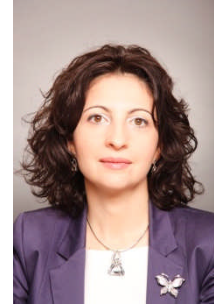
Mihaela Mitroi, *Partner*  
[mihaela.mitroi@ro.pwc.com](mailto:mihaela.mitroi@ro.pwc.com)



Ionuț Simion, *Partner*  
[ionut.simion@ro.pwc.com](mailto:ionut.simion@ro.pwc.com)



Daniel Anghel, *Partner*  
[daniel.anghel@ro.pwc.com](mailto:daniel.anghel@ro.pwc.com)



Diana Coroabă, *Partner*  
[diana.coroaba@ro.pwc.com](mailto:diana.coroaba@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*