

Adoption of the Law regarding food waste reduction

25 November 2016

In brief

Law no. 217/2016 (the “**Law**”) regarding food waste reduction was published in the Official Gazette of Romania no. 934 dated 21 November 2016.

In detail

The Law implements concrete and prioritised measures to ensure food waste prevention.

The Law imposes on all economic operators active in the food industry a series of obligations aimed at preventing food waste and establishes the following **order of priority regarding the measures to be undertaken**:

1. Measures regarding **education and accountability** in connection to food waste reduction throughout the entire food supply chain, from production, processing, storage, distribution and marketing to the final consumer, including the hospitality and food services sectors.
2. **Discounted sales** of products close to their expiry date for consumption. Given the specific provisions in the Law allowing economic operators to provide food

products close to their expiry date to associations, foundations and social entities, for a **maximum price of 3% + VAT** of the purchase / production price, the Law seems to allow sale at a loss.

3. Transfer by means of **donations or sponsorships** of food products for human consumption which are close to their expiry date to certain entities registered as such with the National Authority for Sanitary Veterinary and Food Safety (“**ANSVSA**”). We note that the transfer of food products to ANSVSA registrants can be made under a contract of donation or sponsorship, according to the conditions provided by the Tax Code.
4. Transfer of certain types of sub-products of animal origin, which are not intended for human consumption, towards **animal consumption**.

5. Conversion into **compost** of those food products rendered unfit for human or animal consumption.
6. Valorification of those food products rendered unfit for human or animal consumption by converting them into **biogas**.
7. Transfer of those products which remain after following the above procedure to an authorised unit for **neutralisation**.

We reiterate that economic operators active in the food industry can offer to associations, foundations and social entities those food products which are close to their expiry date, for a **maximum amount of 3% + VAT** of the purchase price (in the case of resellers) or the production price (in the case of producers or processors).

ANSVSA-registered operators which are entitled to receive food products as donations or sponsorships are **forbidden from commercialising the**

received food products in any way, irrespective of whether they wished to provide the food products to the final consumer or to other economic operators.

Associations, foundations and social entities active in the social assistance sector and functioning in accordance with the rules and regulations in force **may commercialise the food products which they received at a maximum amount of 25% + VAT** of the purchase price (if they received the food products from resellers) or of the production price (if they received the food products from producers or processors).

Although the Law does not explicitly state so, it can be inferred that the price at which the associations, foundations and social entities active in the social assistance sector can sell the food products which they received (i.e. maximum amount of 25% + VAT of the purchase / production price) is calculated by reference to the price at which they purchased the food products from resellers or producers (i.e.

maximum amount of 3% + VAT of the purchase / production price).

Note that the **non-observance of the legal obligations** regarding the measures to be undertaken to ensure food waste prevention (or non-observance of the order of priority imposed by the Law) **is considered to be a contravention** and sanctioned with an administrative fee of:

- between RON 1,000 and 3,000 for micro-companies;
- between RON 3,000 and 6,000 for small and medium-sized companies;
- between RON 6,000 and 10,000 for large companies.

We emphasise that the Law does not establish timeframes or strict procedures by which economic operators active in the food industry have to initiate each required step, but the purpose of this enactment is to avoid food waste. For this reason we believe that, in the absence of some precise directions from the legislator,

economic operators will have to assess and organise themselves on a case-by-case basis depending on the specific properties and characteristics of each type of product, provided that food waste is avoided.

The concepts which remain unclear at this point may be clarified, given that the Ministry of Agriculture and Rural Development has an obligation to develop norms for the application of the law within six months as of its publication in the Official Gazette.

The takeaway

The Law will enter into force on **21 May 2017**, i.e. within six months as of the date of its publication in the Official Gazette. By that date, the methodological norms for the application of the Law are also expected to have been published.

[Source: Law no. 217 dated 17 November 2016 regarding the reduction of food waste, published in the Official Gazette of Romania no. 934 dated 21 November 2016]

Let's talk

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



Sorin David, *Partner*
sorin.david@david-baias.ro



Dan Dascălu, *Partner*
dan.dascalu@david-baias.ro



Anda Rojanschi, *Partner*
anda.rojanschi@david-baias.ro



Manuela Guia, *Partner*
manuela.guia@david-baias.ro

PwC România

Lakeview Building
301-311 Barbu Vacarescu Street
Sector 2, Bucharest
Tel.: + 40 21 225 3000
Fax: + 40 21 225 3600

D&B David și Baias SCA

Lakeview Building
301-311 Barbu Vacarescu Street
Sector 2, Bucharest
Tel.: + 40 21 225 3770
Fax: + 40 21 225 3771