

# ***Fiscal Code amendments by GEO 3/2017***

20 January 2017

## ***In brief***

Government Emergency Ordinance (GEO) no. 3/2017 has been published, bringing a series of modifications and amendments to Law 227/2015 concerning the Fiscal Code.

## ***In detail***

Law 227/2015 concerning the Fiscal Code has been amended and supplemented as follows:

### ***Exemption from corporate income tax for taxpayers engaged exclusively in innovation and R&D activities***

Taxpayers which exclusively perform innovation and R&D activities as defined by Government Ordinance 57/2002 on scientific research and technological development, as amended and supplemented, and related activities, are exempted from corporate income tax for the first 10 years of activity.

### ***Income tax for microenterprises***

The condition regarding the maximum revenues of a company for being considered a microenterprise has been changed, increasing the threshold to EUR 500,000.

A new rule has been introduced regarding the classification of a company as a

microenterprise for fiscal purposes. Thus, for 2017, Romanian companies which are corporate income tax payers and as at 31 December 2016 fulfil the conditions for being a microenterprise as defined by Law 227/2015 become subject to tax for microenterprise revenues as of 1 February 2017. They also have the following obligations:

- To submit the statement for changing the taxation system no later than 25 February 2017;
- To submit the tax return for corporate income tax for taxable profit obtained during the period 1 - 31 January 2017 no later than 25 February 2017.

The tax rates used as of 2017 for microenterprise income tax have been changed as follows:

- 1% for microenterprises with one or more employees;
- 3% for microenterprises with no employees.

### ***Exemptions from the payment of income tax***

Individuals deriving salary income and income treated as such are exempted from income tax, provided they perform activities based on individual employment contracts concluded for a 12-month period with Romanian legal entities that perform seasonal activities as stipulated by Law 170/2016 regarding the tax on specific activities.

### ***Deductions applied for the assessment of income tax for salary income and income treated as such***

Medical services provided by means of subscription, as defined by Law 95/2006 regarding healthcare reform, and which are borne by the employees are deductible for income tax purposes, up to the limit of the RON equivalent of EUR 400 per year.

### ***Income tax due for the transfer of real estate from personal patrimony***

Upon the transfer, by legal deeds inter vivos, of the property right and its dismemberments, on constructions of any kind and on the related land, as well as on land of any kind without constructions, the income tax due is assessed by applying a tax rate of 3% on the taxable income. The taxable income is assessed by deducting the non-taxable amount of RON 450,000 from the value of the transaction.

### ***Social contributions due for salary income and income treated as such***

The following social contributions calculation caps are repealed beginning with February 2017 salary income and income treated as such:

- The monthly calculation cap represented by the value of five times the average gross salary income used for substantiating the social insurance state budget when assessing the individual social insurance contribution and individual health insurance contribution;
- The monthly calculation cap considered for the assessment of the social insurance contribution due by employers and any entity treated as such represented by the value of five times the average gross salary income multiplied by the number of insured individuals for whom the contribution is due;

- The monthly calculation cap considered for the assessment of the health insurance contribution due by employers and any entity treated as such represented by the sum of gross income obtained by individuals deriving salary income and income treated as such capped at the value of five times the average gross salary income.

### ***Social contributions due for investment income and income from other sources***

The cap represented by the amount of five times the average gross salary income used for assessing the health insurance contribution due for investment income and income from other sources has been repealed.

Individuals deriving investment income and/or income from other sources do not owe the health insurance contribution for the respective income if they derive other types of income (e.g. salary income, income from the pursuit of self-employment activities, pensions or income from the pursuit of agricultural activities).

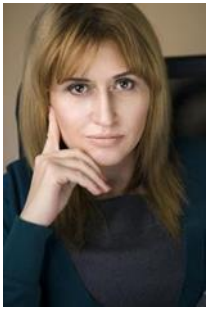
*[Source: Government Emergency Ordinance no 3/2017 published in the Romanian Official Gazette no. 16 on 6 January 2017]*

### ***The takeaway***

- A corporate income tax exemption has been introduced for taxpayers engaged exclusively in innovation and R&D activities for the first 10 years of activity.
- Additional changes have been made to the tax regime for microenterprise income tax regarding the maximum revenues threshold, the re-classification of corporate income tax payers as microenterprises and changes to the tax rates.
- A new category of individuals who are exempted from income tax payment has been introduced.
- Medical services rendered under subscription are deductible, under certain conditions, for assessing the taxable salary income.
- New taxation rules have been introduced for income derived from the transfer of real estate from personal patrimony.
- The calculation cap used for the assessment of the social insurance contribution and health insurance contribution due on salary income, investment income and income from other sources has been repealed.

***Let's talk***

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



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