

Amendments to the provisions regarding software development activities

3 February 2017

In brief

Order no. 872/5932/2284/2903/ 2016 regarding software development activities has been published, amending the provisions of Order no. 217/4172/1348/835/ 2015.

In detail

Order no. 217/4172/1348/835/ 2015 regarding software development activities has been amended, as follows:

- **Romanian public company employees cannot benefit from the income tax exemption for salary income and other income treated as such derived from software development activities;**
- **The minimum revenue threshold to be obtained by the employers has been repealed;**

The employer obligation to obtain a minimum annual revenue of USD 10,000 in the previous fiscal year from software development activities for trading purposes based on commercial agreements has been repealed.

- **New categories of companies can benefit from the tax exemption;**
Companies set up during the fiscal year and others subject to reorganisation

during the fiscal year, according to the law, are not obliged to obtain the minimum revenue threshold from software development activities, neither in the previous year for the next fiscal year nor during the year of the reorganisation.

- **It has been clarified that the purpose of software development activities should be a final product or a component of a final product;**
- **The condition to authenticate the justifying documentation for the applicability of the income tax exemption has been eliminated;**

Employees are requested to provide accurate copies of study documents (such as diplomas, supplements to diplomas and university statements) and individual employment contracts containing the statement “according to the original”.

- **New rules have been introduced regarding the archiving of supporting documentation in electronic format;**

The possibility of archiving the justifying documents in electronic format has been introduced. In this case, the documents have to be signed with an extended electronic signature based on a qualified certificate provided by a specific services provider.

The amendments brought by the Order enter into force as of the first day of the month following that in which the Order was published in the Official Gazette, i.e. as of 1 February 2017, and apply for the revenues derived during the respective month.

[Source: Order no. 872/5932/2284/2903/ 2016 regarding the software development activities, published in Romanian Official Gazette no. 22 on 9 January 2017]

The takeaway

The changes brought by Order no. 872/5932/2284/2903/2016 are substantial and reflect new elements, as follows:

- The minimum income threshold of USD 10,000 to be obtained by employers in the previous fiscal year has been repealed;
- The purpose of the software development activities should be a final product or a component of a final product;
- The condition of providing authenticated back-up documentation has been repealed;
- The possibility to archive justifying documents in electronic format has been introduced.

Let's talk

For a more detailed discussion of the impact that these provisions can play in your specific case, you can contact the following persons:



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