



Tax & Legal Newsletter March 2024

1. Amendments to the Fiscal Code

An emergency ordinance on various fiscal-budgetary measures has been promulgated, introducing, among other things, a number of fiscal amendments. The changes are summarised below:

- Minimum turnover tax

Taxpayers regulated / licensed by the National Energy Regulatory Authority who derive more than 95% of their total revenue from the distribution / supply / transmission of electricity and natural gas, minus exempted revenues included in the Vs indicator, are exempted from applying the minimum turnover tax.

- Micro-enterprise tax

For the purposes of applying the micro-enterprise tax regime, a Romanian legal entity is considered to be linked with another person if any of the following relationships exist between them:

- The Romanian legal entity holds (directly or indirectly) in another Romanian legal entity more than 25% of the shares or voting rights or has the right to appoint or dismiss the majority of the members of the Romanian legal entity's administrative / management / supervisory board;
- Another Romanian legal entity holds (directly or indirectly) more than 25% of the shares / voting rights of the Romanian legal entity which qualifies as a linked undertaking or has the right to appoint or dismiss the majority of the members of the administrative / management / supervisory board of the Romanian legal entity which qualifies as a linked undertaking;
- Two Romanian legal entities are considered to be linked if another person holds (directly or indirectly) more than 25% in both companies. If the shareholder of the two companies is a Romanian legal entity, then the verification of the EUR 500,000 threshold will also take into account the revenues booked by the shareholder;
- The Romanian legal entity meets the condition of a linked undertaking if one or more of its shareholders holds (directly or indirectly) at least 25% of its shares / voting rights and also carries out economic activities through an authorised individual / sole proprietor / family business / other organisational form carrying economic activities without legal personality, authorised in accordance with the legal provisions in force. In this case, the revenues of the shareholders booked as per the applicable accounting regulations or, as the case may be, the annual income quota (norm), are cumulated with the income booked by the Romanian legal entity and other linked undertakings.

The EUR 500,000 threshold is verified by taking into account the income recorded by the Romanian legal entity cumulated with (i) the income of its linked undertakings and (ii) one quarter of the annual income quota (norm) established for the current tax year of the authorised individuals / sole proprietors / family businesses / other organisational forms carrying out economic activities without legal personality, authorised according to the laws in force, who calculate their income tax based on the annual income quota (norm).

The elements to be taken into account when determining the EUR 500,000 threshold are the same as those which constitute the taxable base of the micro-enterprise tax.

The new provisions also apply when determining the applicability of the micro-enterprise tax regime for the 2024 fiscal year.

By way of exception, for 2024, the deadline for notifying the application of the micro-enterprise tax regime has been extended until 15 April 2024 (normally the deadline is 31 March).



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Taxpayers who have announced their application of the micro-enterprise tax regime / exit from the system by 29 March 2024 should submit, where appropriate, a new statement taking into account the new conditions applicable under the micro-enterprise tax regime.

Source: Emergency Ordinance no. 31 on the regulation of various fiscal-budgetary measures and amending and expanding various normative acts, as published on 29 March 2024

2. Amendments to the RO e-Invoice national system

The following amendments have been introduced to the RO e-Invoice national system:

- Failure to submit invoices via the RO e-Invoice system within the legal deadline will attract fines of up to RON 10,000. This penalty will be applied on a monthly basis for one or more invoices for which the submission deadline falls during a given calendar month.
- The grace period during which no penalties are applied has been extended until 31 May 2024 (previously it was 31 March 2024)

Source: Emergency Ordinance no. 30 on amending and expanding Law no. 227/2015 (the Fiscal Code) and Article LIX of Law no. 296/2023 on various fiscal-budgetary measures to ensure Romania's long-term financial sustainability, as published on 29 March 2024

3. Draft Law – Amendment of Government Ordinance no. 99/2000 on the trading of products and services

On 11 March 2024, the Romanian Senate adopted a draft law amending Government Ordinance no. 99/2000 on the trading of products and services, which, if it comes into force, would mean that shopping centres will be obliged to install first aid points for the provision of emergency medical assistance.

The types of traders affected by these changes include shopping centres, commercial parks, hypermarkets, supermarkets and any other sales structure with a surface area of more than 2,000 square metres used for specialised and non-specialised trading and selling food and/or non-food products.

The proposed first aid points will have the following characteristics:

- they will be set up, depending on the surface area occupied by the trader in question, such that there is one first aid point for every 2,000 square metres.
- they must be equipped with an emergency medical care kit allowing the staff working there to provide medical assistance until an ambulance arrives.
- they will be equipped with one or more defibrillators, depending on the surface area of the trader.
- the staff working at such first aid points must have completed secondary school-level education or higher and be trained in the provision of first aid.

Traders affected by this amendment who fail to comply with the obligation to set up first aid points may be subject to fines of between 2,000 lei to 4,000 lei.

This amendment has not yet entered into force, with the draft law currently being under debate in the Chamber of Deputies.

Source: Draft Law, PL-x no. 165/2024, on the modification and expansion of Government Ordinance no. 99/2000 on the trading of products and services.



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4. Formalisation of money laundering prevention rules for tax consultants and tax advisory companies

On 18 March 2024, Resolution no. 4 of 11 March 2024 of the Chamber of Tax Consultants was published in the Official Gazette. The Resolution contains the set of rules with which tax consultants and tax consultancy companies must comply with respect to the prevention and combating of money laundering.

The rules establish the measures and activities aimed at preventing and combating money laundering and terrorist financing that are to be carried out at sectoral level by tax advisors and tax consultancy companies, with these entities being overseen and verified by the Chamber of Tax Advisors.

Key aspects:

- The management of tax consultancy companies must designate one or more persons as being responsible for the application of Law no. 129/2019 on the prevention and combating of money laundering and terrorist financing (Law no. 129/2019).
- The designated person(s) must have direct and permanent access to all data and information held at the level of the regulated entities, which are necessary for the fulfilment of legal obligations and duties.
- There must exist internal mechanisms at company level to protect designated persons.
- The Chamber of Tax Advisors must be informed of the designated person(s).
- The employees of tax consultancy companies must be regularly informed as to the existence of internal procedures to prevent and combat money laundering, and companies must ensure that these procedures are implemented.
- Employees shall undergo regular training specific to their roles and duties within the entity, including through participation in special ongoing professional training programmes and assessments of knowledge and its application.
- Tax advisors and tax consultancy companies must carry out and regularly update their own risk assessments, thereby identifying, assessing and managing money laundering risks at the client level, at the level of the services provided and at the level of the entire business.
- Tax advisors and tax consultancy companies must apply simplified, standard or additional know-your-client measures, as applicable, i.e. they must verify the identity of clients and beneficial owners before establishing a business relationship or carrying out an occasional transaction.
- Tax advisors and tax consultancy companies are immediately required to submit a suspicious transaction report to the National Office for the Prevention of Money Laundering if, after applying customer due diligence and risk assessment measures, they identify any suspected instances of money laundering or terrorist financing.
- The application of the provisions of Law no. 129/2019 is overseen and verified, within the remit of their responsibilities, by the National Office for the Prevention and Combating of Money Laundering and by the Chamber of Tax Consultants, in its capacity as a self-regulatory organisation.

Source: Decision no. 4 of 11 March 2024 approving the sectoral professional rules on the establishment of measures to prevent and combat money laundering and terrorist financing specific to the field of tax consultancy.

5. Legislative changes regarding the employment of foreign nationals in Romania

Emergency Ordinance no. 25/2024 amending and supplementing certain legal acts in the field of aliens and borders was published on 22 March 2024 in the Official Gazette and lays down the necessary measures to transpose Decision (EU) 2024/210 on the full application of the provisions of the Schengen acquis in the Republic of Bulgaria and Romania, following the abolition of controls at air and sea borders as of 31 March 2024.



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Key aspects:

- During their stay in Romania, foreign nationals are obliged to declare, within three days, at the local branch of the Romanian Immigration Office that granted them the right of residence, any change in connection with their employment status.
- Foreign nationals who enter Romania for the purposes of employment will have their right of temporary residence extended for the purposes of employment upon presenting of a full-time individual employment contract concluded within 15 working days of entering Romania or, where applicable, of obtaining a new employment permit, registered with the general register of employees, showing that their salary is equivalent to at least the minimum gross salary. In the case of highly qualified workers, the salary must be at least the same as the average gross salary. The provisions concerning the time limit for the conclusion of an individual employment contract do not apply if the failure to conclude the individual employment contract is the fault of the employer.
- Every foreign national for whom an employment or secondment permit has been issued and who has been granted an extension to their right of temporary residence or who has been granted the right of long-term residence shall be assigned a personal numeric code by the General Inspectorate for Immigration, which shall be included on the residence permit or employment or secondment permit.
- The employer is obliged to conclude an individual employment contract within 15 working days of the foreign national's entry into Romania or, as the case may be, their obtaining of a new employment permit in the case of a long-stay visa for employment purposes, with employers who fail to meet this deadline being subject to fines of between 5,000 and 10,000 lei. If the failure to conclude an individual employment is the fault of the foreign national, then the employer is not deemed to have committed an offence
- a newly introduced requirement when obtaining employment permits for permanent workers is that the employer must have been effectively active in the field of activity for which the employment permit is requested for at least one year.
- In the case of foreign nationals who hold valid long-stay visas for the purposes of employment, the employment permit for permanent workers is issued only once.

Source: Emergency Ordinance no. 25/2024 amending and supplementing various regulations in the field of aliens and border control

This newsletter is a service of TPA Romania.

TPA Romania

Str. Grigore Cobălcescu 46, 010196 Bucharest, Romania

Tel: +40 21 310 06-69

Fax: +40 21 310 06-68

www.tpa-group.ro

www.tpa-group.com



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Dan Iliescu

Legal Services Partner

email: dan.iliescu@tpa-group.ro



Daniela ZAR, FCCA

Tax Partner

email: daniela.zar@tpa-group.ro



IMPRINT Information update: 01 April 2024. This information has been simplified and is not a substitute for individual advice. Responsibility for the content lies with [Dan Iliescu, Legal Partner](#) and [Daniela Zar, Tax Partner](#), of TPA Romania, Str. Grigore Cobălcescu 46, 010196 Bucharest, Romania. TPA Romania is an independent member of the Baker Tilly Europe Alliance. Tel: +40 21 3100669. Homepage: www.tpa-group.ro; Concept and design: TPA Romania
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