



Tax & Legal Newsletter January 2023

New amendments brought to the Fiscal Code

The authorities recently introduced a number of legislative amendments, as follows:

1. Subscriptions for sports facilities

The Romanian authorities have published new legislative amendments according to which the category of limited deductible expenses for the calculation of net income is expanded to include the value of subscriptions purchased for the use of sports facilities with a view to the practice of sports and physical education for fitness, prophylactic or therapeutic purposes from suppliers whose activities fall under NACE codes 9311, 9312 and 9313 (i.e. operation of sports facilities, activities of sports clubs, and fitness facilities), within the limit of EUR 400 per year for each employee.

This amount is included in the non-taxable monthly ceiling of 33% of the basic salary and is deducted from the basis for calculating salary tax and social insurance contributions, within this limit. In addition, in the case of subscriptions borne by employees, the facility covers services provided to the employee and/or any dependent thereof, according to the applicable legislation.

Subscriptions can be considered as limited deductible expenses as of the date of publication of this law (i.e. 12 January 2023), and their inclusion in the monthly ceiling comes into effect as of the following month, i.e. February.

Source: Law 34 on the amendment and supplementation of Law 227/2015 (the Fiscal Code), in the form published on 12 January 2023.

2. Application of reduced VAT rate

The reduced rate of 5% VAT now applies to the supply and installation of photovoltaic panels, solar panels and high-efficiency low-emission heating systems that meet PM emissions requirements, in the case of individuals and public administrations.

In terms of companies, an exception is made in the legislation whereby legal entities will continue to apply the standard rate of 19%.

Source: Law 39 on the supplementation of art. 291 para. (3) of Law 227/2015 (the Fiscal Code), in the form published on 13 January 2023

3. Amendments adopted by Law 21/2023 in the field of investments in renewable energy resources

Published in the Official Gazette on 10 January 2023, Law 21/2023 on the modification of Law 50/1991 (the Construction Law) entered into force on 13 January 2023, introducing legislative clarifications in respect of development of renewable energy projects in Romania.



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Law 21/2023 achieves the long-awaited unification between of two normative acts, adopted in the summer of 2022 pertaining to the permitting process for renewable energy projects. In particular, it addresses inconsistencies in Law 254/2022 on the modification of Law 50/1991 (the Construction Law) and in Law 262/2022 the modification of Law 18/1991 and Law 50/1991.

Law 254/2022 adds to Law 18/1991 an exception to the restriction on build developing projects in non-urban, for investments projects targeting the production of electricity from renewable sources on land with a maximum surface area of 50 hectares. Under the new legislative provisions, the aforementioned projects can now be developed simply on the basis of a building permit and an approval of the change of land use for the land on which the targets of the investment are to be located. Previously, at the time Law 262/2022 was adopted, there was no reference to this exception in Law 50/1991, allowing the issuing of building permits without prior approval of and use changes and/or urban planning documentation.

According to Law 21/2023, as of 13 January 2023, in the case of investment projects involving the production of electricity from renewable sources located on non-urban land with a maximum surface area of 50 hectares and falling under soil fertility classes III, IV or V, construction will be allowed solely on the basis of a building permit and the approval of the land use change, without the need for the prior approval of a Zoning Plan (PUZ) for such projects.

It should be noted that Law 21/2023 lacks a set of transitional rules for projects already in the authorisation phase (i.e. having already been issued planning certificates or undergoing authorisation under the PUZ procedure), which may create problems in practice. Furthermore, Law 21/2023 does not amend Law 350/2001 on urban planning to specifically include a similar exception to the rules requiring the prior existence of a General Urban Plan (PUG) or Zoning Plan (PUZ) as a suspensive condition for the issuing of any building permit.

On the other hand, it should be noted, that the Romanian Parliament is keen to promote renewable energy projects and working to eliminate any inconsistencies and legislative ambiguities affecting this strategic sector. However, it remains to be seen to what extent the aim of Law 21/2023 has been achieved, i.e. simplification of the necessary bureaucratic process by eliminating a mandatory step in the procedure for developing renewable electricity generation capacity, namely the obtaining of a PUZ.

Source: Law 21 of 9 January 2023 amending and supplementing Law 50/1991 on the authorisation of construction works.

This newsletter is a service of TPA.

Kind regards,
Your TPA Team



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