



Tax & Legal Newsletter February 2019

1. Clarifications have been issued on the method to be used to calculate turnover with respect to the application of tax incentives for individuals working in the construction sector

Emergency Ordinance 114/2018 introduced a tax incentive for individuals working in the construction sector. One of the conditions attached to this facility was that the employer must generate at least 80% of its turnover from construction activities. This gave rise to various questions regarding the method to be used when calculating turnover.

Relevant clarifications have now been issued in an update to the filling instructions for Form 112 which cover the method to be used in determining monthly values of turnover and the 80% cap. More specifically, turnover is defined as being the amount of cumulative income derived from the beginning of the year from the sale of goods or provision of services after the deduction of trade discounts, to which the following are added:

- any income from subsidies relating to operating activities
- any revenues associated with the production cost of the work in progress
- any capitalised costs of tangible non-current assets and investment property

This incentive is also granted in the case of part-time employment contracts (under certain conditions), but not for seconded employees.

Source: Order No. 611/138/127/2019 on the approval of the template, content, method of filing and management of the "tax return regarding the obligation to pay social contributions and income tax and regarding the nominal record of insured persons

2. New changes to the justice laws

On 19 February 2019, the Romanian Government adopted Government Emergency Ordinance no. 7/2019, which amends the laws on justice as well as introducing measures concerning, but not limited to, the statute and vocational training of judges and prosecutors and admissions to the National Institute of Magistracy. These changes have been met with discontent among associations of magistrates and the general public.

The amendments affect the recruitment system for new magistrates and violate the principle of the separation of the careers of judges and prosecutors, while the top positions within the Public Prosecutor's Office will no longer be held through delegation.

In addition, the management of the Special Department for the Investigation of Magistrates is to be appointed by political entities (and not by the Superior Council of Magistracy), while the department for the investigation of crimes in the justice system will be exempt from hierarchical control.



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The approval of appointments of prosecutors to top positions, in accordance with the recommendations made through the Cooperation and Verification Mechanism, the recommendations of the Venice Commission and the principle of the separation of careers laid down in art. 3 of Law no. 303/2004, should remain within the area of competence of the Prosecutors' Department and candidates are to be selected exclusively from among prosecutors.

Finally, magistrates may now be dismissed in the event of a "loss of good reputation", even if the law neither defines the concept of a "good reputation" nor provides any criteria in this respect, something which creates the suspicion of great subjectivity on behalf of the Judicial Inspection and the Superior Council of Magistracy.

Source: Government Emergency Ordinance no. 7 of 19 February 2019 concerning temporary measures regarding the entrance exam for the National Institute of Magistracy, the initial vocational training of judges and prosecutors, the graduation exam for the National Institute of Magistracy, and the internship and examination of professional competence of trainee judges and prosecutors, as well as amending and supplementing Law no. 303/2004 on the statute of judges and prosecutors, Law no. 304/2004 on judicial organisation and Law no. 317/2004 on the Superior Council of Magistracy, published in the Official Gazette of Romania no. 137 on 20 February 2019.

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Kind regards
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