



Tax & Legal Newsletter July 2020

A. TAX NEWSLETTER

1. Updated instructions regarding VAT exemptions

The instructions for how to obtain VAT exemptions have been updated with the following clarifications:

Exports of goods and export-related services

- The definition of an exporter has been extended to include persons transporting goods outside of the EU in the absence of a commercial transaction
- In order to justify a VAT exemption, the supplier, who does not have or cannot have the status of exporter, should provide an export customs declaration with box 44 filled in with their data
- The exporter can prove the actual export of the goods from the EU by means other than those specifically mentioned in the legislation
- Export-related services are deemed to be those services that actually contribute to the performance of an export operation and which are provided directly to the exporter/consignee of the exported goods

VAT exemptions for processing services related to imported goods: the condition regarding inward processing has been eliminated.

Ship and aircraft exemptions: clarifications have been provided regarding (i) the supply of goods or services to ships; and (ii) supplies of aircraft.

Intra-Community supplies of goods (in the context of Quick Fixes)

- With respect to the situations provided for in art. 45a of Regulation (EU) 2018/1912,¹ the documents attesting to the transportation of goods from Romania to another Member State are those provided for in paras. (1) and (3) of art. 45a of Regulation (EU) 282/2011. The legislation also stipulates the documentation required to justify a VAT exemption where these situations do not apply (examples are provided)
- Independent parties are deemed to be those that are not related, as per the Fiscal Code (art. 7, point 26)
- The granting of an exemption is dependent on the correct reporting of transactions in the recapitulative statement (examples are provided of situations in which incorrect reporting can be fixed)

Submission of supporting documents: the deadline for presenting the supporting documents for VAT exemption has been extended from 90 days to 150 days.

Source: Order no. 2148/2020 amending and supplementing the Instructions for applying value added tax exemptions for the operations provided for in art. 294 para. (1) letters (a)-(i), art. 294 para. (2) and art. 296 of Law no. 227/2015 on the Fiscal Code, as published in the Official Gazette no. 628.

¹ Council Implementing Regulation (EU) 2018/1912 of 4 December 2018 amending Implementing Regulation (EU) No 282/2011 as regards certain exemptions for intra-Community transactions



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2. Tax credit to be allowed on purchases of electronic cash registers

Taxpayers subject to corporate tax, the micro-enterprise tax, income tax or the tax on specific activities (HoReCa) will be able to deduct the cost of purchasing electronic cash registers from their tax bills.

Source: Law no. 153/2020 amending and supplementing the Fiscal Code and Law no. 170/2016 on the tax on specific activities, as published in the Official Gazette no. 659.

B. LEGAL NEWSLETTER

1. Simplified procedure for declaring real beneficiaries

Law no. 108/2020, which introduces a series of exemptions from the obligation to declare real beneficiaries for certain categories of persons, came into force on 9 July 2020.

As a result, legal persons will now no longer be required to submit a declaration regarding their real beneficiaries, except **upon incorporation or whenever a change occurs** (within 15 days of the date on which this event occurred). With 2020 being the first year in which it is mandatory to declare real beneficiaries, for the current year companies have until 1 November 2020 to submit the relevant declarations.

Law no. 108/2020 also introduces some other important changes, as follows:

1. Companies with associates/shareholders comprised exclusively of natural persons are no longer required to submit a declaration regarding their real beneficiaries **if they themselves are the sole real beneficiaries**. Where this is the case, in the absence of a declaration regarding their real beneficiaries, the National Office of the Trade Register will complete ex officio the register of real beneficiaries of companies based on the information contained in the documents accompanying the company registration application or in the records held for companies that are already registered.
2. Reporting entities as defined under Law no. 129/2019 (lawyers, auditors, chartered accountants and certain traders with transactions worth more than EUR 10,000) **must obtain additional information about their business partners** proving that the latter have declared their real beneficiaries, or information from the records of the real beneficiaries, whenever they embark on a new business relationship with persons subject to the obligation to register information regarding their real beneficiaries.
3. **Information about real beneficiaries** may be obtained from the records of real beneficiaries by any person without demonstrating a legitimate interest.
4. Companies **that sell goods and perform cash transactions with a value of more than 10,000 euros** must designate a person as responsible for fulfilling the obligations provided for under Law no. 129/2019.
5. The National Office for the Prevention and Combating of Money Laundering may also investigate any suspicious money laundering transactions **ex officio**.
6. **Cryptocurrency**-related service providers are required to identify suspicious transactions and report them to the authorities.
7. Declarations regarding real beneficiaries can be submitted as of now, **including remotely**, i.e. by post, courier or online using an electronic signature.

However, Law 108/2020 did not introduce any changes with respect to the reporting obligations for associations and foundations regarding their real beneficiaries. Consequently, **NGOs still need to submit annual declarations regarding their real beneficiaries**, even if they are made up exclusively of physical persons.



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In the case of associations, it is stated that the real beneficiary is the category of natural persons or, as the case may be, the natural persons in whose main interest they were established, or, in the case of foundations, the category of natural persons in whose main interest they were established.

Source: Law no. 108/2020 amending and supplementing Law no. 129/2019 on the prevention and combating of money laundering and terrorist financing, as well amending and supplementing various normative acts, as published in the Official Gazette no. 588 on 6 July 2020.

2. New rules for online intermediation services

Online platforms providing intermediation services between the sellers and buyers of goods and services must comply with new rules for traders, according to European Regulation 2019/1150, which comes into effect on 12 July.

The Regulation applies to **online intermediation services and users of those services** (companies or consumers) established within the European Union, as well as in cases where professional users of such sites are established within the European Union but use online intermediation services or online search engines to offer goods or services exclusively to consumers located outside of the European Union or to non-consumers. The Regulation aims to create a transparent and fair framework for traders who use online platforms to sell their products and services.

It will apply whenever intermediation service providers use terms and conditions unilaterally established by the online intermediation service provider.

First and foremost, online platforms need to **update their terms and conditions** so that they are easy to understand and accessible at any point in the business relationship, including during the negotiation stages.

Changes to the terms and conditions must be notified to the trader **at least 15 days in advance**, and if they are not accepted the trader has the right to terminate the contract with the online intermediation services provider within 15 days of receiving notice of any such change.

The Regulation also stipulates other obligations for online platform administrators, e.g.:

- to present the hierarchy of products on the online platform
- to indicate situations in which the provision of services may be restricted, suspended or ceased
- to provide information about the conditions under which a contract may be terminated and what will happen to information obtained as a result of a trader's activity on the platform following termination of the contractual relationship
- to provide information about any possible restrictions on the trader in terms of the ability to offer the same goods and services by means other than their sale through the platform, etc.

In the event of a termination of the contractual relationship at the initiative of the platform administrator, the latter will be required to state the grounds for doing so and to provide the trader **with at least 30 days' notice** thereof.

Any terms and conditions considered non-compliant with the provisions of the regulation will be considered **null and void**.

In addition, intermediation platforms must provide traders with an internal complaints handling service, with **mediation** available as a means of resolving disputes between suppliers and users.

The authority responsible for the application of European Regulation 2019/1150 in Romania will be the **Competition Council**, and for certain types of violations said authority will be able to impose fines of up to 1% of a company's turnover.



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All the provisions contained within the Regulation will essentially be beneficial to traders, in that they are intended to prevent online platforms from abusing their privileged position.

Source: Regulation (EU) 2019/1150 of the European Parliament and of the Council of 20 June 2019 on the promotion of fairness and transparency for business users of online intermediation services.

This newsletter is a service of TPA.

Kind regards
Your TPA Team

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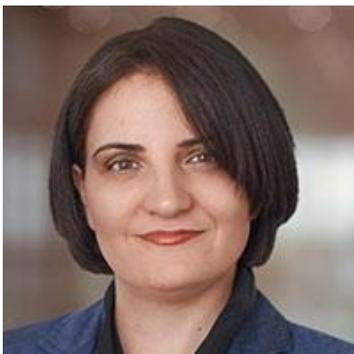
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