



## Tax & Legal Newsletter March 2021

### A. TAX FLASH

#### Updates on deadlines and tax transparency in the digital economy

The authorities recently introduced a series of tax and legal amendments/clarifications, as follows:

##### Profit tax

- Application of the early education incentives has been suspended from 1 April 2021 until 1 January 2022. The postponement is also correlated at the level of salary related taxes.
- During this period, expenses relating to the proper functioning of taxpayer-funded crèches and kindergartens are deductible within the limits applicable to social expenses.

##### Specific Tax (the HoReCa sector)

- The exemption from the payment of the specific tax by taxpayers operating in the HoReCa sector has been prolonged for an additional period of 90 days starting with 1 April 2021.

##### Value added tax

- Intra-community transactions carried out with taxable persons resident in the United Kingdom of Great Britain and Northern Ireland will not be included in the intra-community lists of transactions, with the exception of intra-community transactions involving the transport of goods to and from Northern Ireland.
- The date until which taxpayers may benefit from a reimbursement of value added tax with a subsequent tax audit has been extended from 31 March 2021 to 31 January 2022.

##### Other tax incentives

- The deadline for submitting a request for the restructuring of tax liabilities under GEO no. 6/2019 has been extended from 30 June 2021 to 31 January 2022 (the related notification must be submitted by 30 September 2021).
- The deadline for submitting a request for the cancellation of ancillary liabilities has been extended from 31 March 2021 to 31 January 2022.
- The deadline for submitting a request for payment in instalments has been prolonged from 31 March 2021 to 30 September 2021.
- Additional tax liabilities relating to principal budgetary debts outstanding as at 31 March 2020 and incurred as a result of tax audits ongoing as at 29 March 2021, or as a result of tax audits that started after 29 March 2021 but no later than 31 January 2022, are eligible for cancellation under certain conditions.

*Source: Emergency Ordinance no. 19/2021 regarding various tax measures, as well as the amendment and supplementation of certain fiscal normative acts, as published on 29 March 2021.*



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### Electronic cash registers

- The procedure for connecting electronic fiscal cash registers has been published
- The connection of cash registers will take place as follows:
  - Until 30 June 2021, for large taxpayers
  - Until 30 November 2021, for small and medium taxpayers
  - On the date of installation of electronic cash registers, for purchases that take place after 1 December 2021

*Source: Order no. 435/2021 of the President of the National Agency for Fiscal Administration approving the procedure for connecting fiscal electronic cash registers to the national computer system for the supervision and monitoring of the fiscal data of the National Agency for Fiscal Administration, as published on 30 March 2021*

### EU legislative updates

The Council of the European Union has adopted new rules on tax transparency applicable for digital platforms (DAC7) with respect to the economic activities performed by sellers (individuals or legal entities) through those platforms, such as the sale of goods, the renting of real estate, etc.

The new provisions will have to be implemented through domestic legislation by 31 December 2022 and will be applicable as of 1 January 2023.

*Source: European Council press release published on 22 March 2021*

## B. LEGAL FLASH

### New rules of application for law on prevention and combating of money laundering

Order no. 37/2021 approving of the Norms of Application of the provisions of Law no. 129/2019 on the prevention and combating of money laundering and terrorist financing entered into force on 9 March 2021, thus repealing the existing rules of application. The main amendments introduced by the Order are as follows:

#### I. Reporting entities

The following categories have also been included in the category of reporting entities:

- **authorised valuers** registered with the National Association of Authorised Romanian Valuers, **tax consultants** registered with the Chamber of Tax Consultants, as well as **entities** that undertake to provide (whether directly or through other persons with whom the person in question is affiliated) material assistance or assistance or advice on fiscal and financial matters as their main economic or professional activity (as provided for in art. 5 paragraph (1) letter e) of the Law); Also included are those entities that carry out the activities listed in art. 5 para. (1) letter e) of the Law in keeping with CAEN code 7022;
- **real estate agents and developers, including when acting as intermediaries in the rental of real estate**, but only with respect to transactions in which the value of the monthly rent represents the equivalent in lei of 10,000 euros or more, including those entities that carry out the real estate activities listed in art. 5 para. (1) letter h) of the Law in keeping with CAEN codes 6831 and 4110 – entities provided for in art. 5 para. (1) letter h) of the Law;
- **digital wallet providers** authorised by the Ministry of Finance;

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- **providers of exchange services between virtual currencies and fiat currencies** authorised by the Ministry of Finance;
- **the liberal professions** where they provide services to companies or trusts;
- **persons trading in works of art or acting as intermediaries in the trade of works of art**, including where this activity is carried out by art galleries and auction houses, where the value of the transaction or a series of related transactions represents the equivalent in lei of 10,000 euros or more (art. 5 para. (1) letter j) of the Law); also included are those entities that carry out the activities listed in art. 5 para. (1) letter j) of the Law in keeping with CAEN codes 4778, 4779, 4791, 4799 and 9003;
- **persons who deposit or sell works of art or who act as intermediaries in the trade of works of art**, where this activity is carried out in free trade zones and where the value of the transaction or a series of related transactions represents the equivalent in lei of 10,000 euros or more (art. 5 para. (1) letter k) of the Law). Also included are those entities that carry out the activities listed in art. 5 para. (1) letter k) of the Law.

### II. Internal audit

Under the new provisions of the Norms of Application, regulated entities are required to conduct an independent audit to test the effectiveness and practical implementation of policies, rules, procedures and mechanisms if during the previous financial year they exceed at least two of the following thresholds:

- a) total assets: RON 16,000,000
- b) total net turnover: RON 32,000,000
- c) average number of employees: 50

### III. Designated person

The obligation to transmit information regarding the identification data of the designated person to the Office has been eliminated. All information regarding the appointment and duties of the designated person will therefore only be stored in the company's records.

Reporting entities have an obligation to create mechanisms for the protection of designated persons, as well as appropriate procedures for reporting violations of any kind of the legal regulations in the field by employees or persons in similar positions through a specific, independent and anonymous channel. As applicable, these mechanisms must include as a minimum:

- a) the adequate protection of employees or persons in similar positions within regulated entities who report violations of any kind of Law no. 129/2019
- b) the adequate protection of designated persons/compliance officers
- c) the protection of the personal data of the person reporting any kind of breach of the Law, as well as of the natural person suspected of being responsible for the breach, in accordance with the principles set out in Regulation (EU) 2016/679
- d) clear rules to ensure that confidentiality is guaranteed in all cases regarding the identity of the person reporting violations of any kind of Law no. 129/2019 committed within the regulated entity, unless disclosure is required by other legal provisions.

Regulated entities also have an obligation to ensure the legal protection of employees and their representatives who report, either internally or to the Office, suspected acts of money laundering or terrorist financing against exposure to threats, retaliation or hostile actions, especially unfavourable or discriminatory actions at work, including ensuring the confidentiality of their identity.



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### IV. Investigations by the National Office for the Prevention and Control of Money Laundering

The Norms of Application also introduce a new facility regarding the possibility for regulated entities, after receiving notification of an upcoming investigation, to submit a written request, either in the form of a physical document or electronically, to the National Office for the Prevention and Control of Money Laundering asking for a postponement of the control. This may be done only once and only on justified grounds.

Justified grounds for a postponement include: the absence of the legal representative/proxy of the entity under investigation due to clearly justified cases of ill health or exceptional family events, i.e. deaths, marriages, etc.

The Norms of Application also state that any attempt to intentionally impede the performance of the control constitutes obstruction of the control activity. This obstruction may consist of, without being limited to, the following:

- a) restricting in any form the performance of a control at the date, time and place specified in the notification;
- b) preventing the access of staff with control functions from the Office for the Prevention and Control of Money Laundering to the headquarters of the entity;
- c) failure to provide, delay in providing or the provision of erroneous data and information to staff with control functions from the Office for the Prevention and Control of Money Laundering;
- d) the absence of a legal/authorised representative of the entity at the initiation and/or closure of the control.

*Source: Order no. 37/2021 on the approval of the Norms of Application of the provisions of Law no. 129/2019 on the prevention and combating of money laundering and terrorist financing, as well as to amend and supplement various normative acts, for reporting entities supervised and under investigation by the National Office for the Prevention and Combating of Money Laundering; the 2021 Norm for the application of the provisions of Law no. 129/2019 on the prevention and combating of money laundering and terrorist financing, as well as to amend and supplement various normative acts, for reporting entities supervised and under investigation by the National Office for the Prevention and Combating of Money Laundering, as published in the Official Gazette no. 240 of 9 March 2021.*

This newsletter is a service of TPA.

Kind regards,  
**Your TPA Team**



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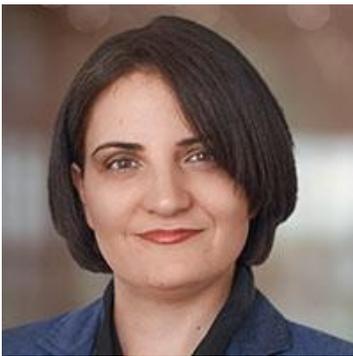
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