



Tax Flash January 2022

Sponsorship credit and list of high tax risk products

1. Sponsorship credit

Law no. 322/29.12.2021 supplementing the Fiscal Code was published on 30 December 2021 in the Romanian Official Gazette and entered into force on 2 January 2022.

The new law makes changes to the way sponsorship expenses are treated by taxpayers when calculating corporate income tax and micro-enterprise tax.

As a result of the changes, sponsorship expenses incurred by a company are to be treated as non-deductible for corporate income tax purposes, while still being allowed to be used as a tax credit, the value of which being the lower of the following two amounts:

- 0.75% of annual turnover
- 20% of the amount of corporate income tax due.

Law no. 322/2021 further stipulates that, as of January 2022, where sponsorship expenses incurred during a tax year do not exceed the aforementioned threshold and a positive amount of the threshold still remains even after deducting sponsorship expenses brought forward from previous years, this remaining amount may be redirected by the taxpayer from their annual corporate income tax towards sponsorships/private scholarships within a 6-month period starting as of the date of submission of the annual corporate income tax return. The tax authorities will redirect the said amounts pursuant to a request submitted by the taxpayer. With respect to the sponsorship of non-profit organisations, the law states that the beneficiary of a sponsorship must be enrolled on the Register of Non-profit Organisations on the date the payment is made by the tax authorities.

Therefore, starting with the current year, if the tax threshold for sponsorships is not entirely utilised during a tax year in terms of sponsorship expenses incurred and/or the offsetting of sponsorship expenses brought forward from previous years, then the remaining positive amounts may be redirected after submission of the annual corporate income tax return. This involves first the payment of the positive difference as corporate income tax, and then, on the basis of a request submitted by the company, the redirection by the tax authorities of the amount in question to the desired beneficiary.

However, it should be noted that the carrying forward of sponsorship expenses is no longer allowed starting with sponsorships performed as of January 2022. Therefore, if a company incurs sponsorship expenses in excess of the aforementioned thresholds, then such amounts may no longer be used as tax credits. Transitional measures are provided for, allowing for the carrying forward of sponsorship expenses incurred but not used by 31 December 2021 (valid up to and including 2028).

For companies whose tax year differs from the calendar year, the above provisions will apply starting with the tax year 2022-2023.



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In addition, in the case of taxpayers who are part of a fiscal group, the redirecting of said amounts can only be requested by the group's designated legal entity.

Similar provisions were also included for micro-enterprise taxpayers. The latter will still use the value equivalent to 20% of the micro-enterprise tax due, and if this value (calculated for the tax year) has not been fully utilised, even after deducting sponsorship expenses brought forward from previous years, then the amount not utilised may be redirected by the company towards sponsorships/private scholarships within a 6-month period starting as of the date of submission of the micro-enterprise tax return for Q4. The tax authorities will redirect the said amounts pursuant to a request submitted by the taxpayer. Of course, the positive difference to be redirected will still first need to be paid by the taxpayer as micro-enterprise tax.

With respect to the sponsorship of non-profit organisations, the law states that the beneficiary of a sponsorship must be enrolled in the Register of Non-profit Organisations on the date the payment is made by the tax authorities.

As in the case of corporate income taxpayers, it should be noted that the carrying forward of sponsorship expenses is no longer allowed starting with sponsorships performed as of January 2022. Therefore, if a company incurs sponsorship expenses in excess of the aforementioned threshold for micro-enterprises, then such amounts may no longer be used as tax credits. Transitional measures are provided for, allowing for the carrying forward of sponsorship expenses incurred but not used by 31 December 2021.

The procedure, template and contents of the redirection form are to be established by the tax authorities.

Source: Law no. 322 supplementing Law no. 227/2015 (the Fiscal Code), in the form published on 30 December 2021

2. List of products high tax risk products

The authorities have published the list of high tax risk products (i.e. vegetables, fruits, alcoholic beverages, new constructions, mineral products, clothing and footwear), sold through B2B transactions for which invoices are submitted via the Ro e-Factura invoicing system.

Source: Order no. 12 of the President of the National Agency for Fiscal Administration on the list of high tax risk products sold through B2B transactions, in the form published on 10 January 2022.

Kind regards,
Your TPA Team



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