

TAX ASPECTS IN THE CONTEXT OF COVID-19

1. Tax measures in support of the business environment

On March 16, 2020, the National Agency for Fiscal Administration issued a press release whereby it officially advised about the tax measures which would be considered in the following period in the context of the COVID-19 epidemic:

- Suspension or, as applicable, non-initiation of forced execution against budgetary receivables;
- VAT refund, in March, for all resolved settlements for which up-to-date refund decisions were issued;
- Implementation of a new mechanism for refunding VAT, which aims at rapidly resolving settlements, starting from April 1, 2020;
- Suspension of tax inspections, except for verifications which can be conducted remotely, as well as verifications in cases of tax evasions, in cases where there are indications in this respect;
- Suspension of anti-fraud actions regarding Filter II (regarding the permanent monitoring of road carriage of goods) and of the specific activities at the Border Crossing Points with Hungary and Bulgaria;
- Deferral of the deadline for submitting the tax declarations from March 25, 2020 until April 25, 2020;

2. Generally applicable tax facilities

A series of legislative amendments bring tax implications regarding the payment of taxes, the granting of discounts, the restructuring of budgetary liabilities, the suspension of forced execution measures, etc., namely:

- The deadline for paying the tax on buildings, on land and on means of transportation has been deferred from May 31, 2020 up to and including June 30, 2020;
- The deadline for receiving the discount for paying the above-mentioned taxes has been deferred until the same date, namely up to and including June 30, 2020;

- The debtor wishing to restructure their budgetary liabilities will be able to do so by notifying the relevant tax body about their intention starting from February 1, 2020 until July 31, 2020 or until October 30, 2020, depending on the type of liability, under penalty of forfeiture of such right.
- Up to the expiry of a **30-day term after the end of the state of emergency**: (i) for the due and outstanding tax liabilities, no interest or delay penalties will be calculated or owed according to the Fiscal Procedure Code; (ii) the tax liabilities in the previous point are not considered outstanding tax liabilities; (iii) the forced execution by garnishment of budgetary receivables shall be suspended or shall not be initiated, except for forced executions for the recovery of budgetary receivables set out by criminal decisions issued by the court.
- Taxpayers applying the system of declaring and paying the annual corporate tax, with advance payments made quarterly, can make the advance payments for 2020, at the level of the amount resulting from the calculation of the current quarterly corporate tax. The calculation method will be the same for all quarters of the fiscal year 2020;
- Taxpayers paying corporate tax, irrespective of the declaration and payment system, that pay the tax due for the first quarter of 2020, respectively for the payment in advance corresponding to the same quarter, up to and including the due date of April 25, 2020, will benefit from a **5% discount in the case of large taxpayers or 10% in the case of medium taxpayers and the other taxpayers**, calculated on the due corporate tax. Taxpayers will determine the payable corporate tax/tax on revenues of microenterprises by subtracting the calculated discount from the due tax. The discount will be distinctly recorded in the annual corporate tax declaration;
- The value added tax is not charged by the customs bodies in the case of imports of medicines, protective equipment, other medical devices or equipment and sanitary materials mentioned in the appendix to the ordinance, which can be used to prevent, limit, treat and tackle COVID-19.
- By derogation from the Fiscal Code in the case of income tax, social insurance contribution and social health insurance contribution, due for income realized in 2019, for which there is the obligation to submit the single declaration on income tax and social contributions due by individuals, if the single declaration on income tax and social contributions due by individuals is submitted by June 30, 2020, inclusive, the following bonuses are granted: (i) for the payment of income tax, social security contribution and social security contribution. social health insurance, representing annual tax obligations for 2019, a bonus of 5% of these amounts is granted, if all

these tax payment obligations are extinguished by payment or compensation, in full until June 30, 2020 inclusive; (ii) for the submission of the single declaration on income tax and social contributions due by individuals by electronic means of remote transmission, a bonus of 5% of the income tax, social insurance contribution and social health insurance contribution is granted, this bonus is granted only if the condition of granting the bonus provided in point (i) is met

- The bonuses are granted only in the situation when the annual fiscal payment obligations, representing the income tax, the social insurance contribution and the social health insurance contribution, are extinguished in full by payment or compensation, until June 30, 2020, inclusive
- Amounts representing incentives / bonuses granted by the employer from the salary fund, for the period of emergency decreed according to the law to prevent the spread of COVID-19 epidemic, to individuals who earn income from salaries based on the individual employment contract, as a result of activities that involve direct contact with citizens and are subject to the risk of infection with SARS-CoV-2, are not included in the monthly basis for calculating the social insurance contribution, the social health insurance contribution, respectively the work insurance contribution
- For the duration of the state of emergency decreed in 2020, in the case of taxpayers paying building tax / building tax, the local councils, respectively the General Council of Bucharest may adopt decisions until August 14, 2020 on: (i) tax reduction annually on buildings with a share of up to 50%, for non-residential buildings, owned by natural or legal persons, used for their own economic activity or put into use by a lease, loan or other type of contract for carrying out economic activities to other natural or legal persons, as the case may be, if during the period for which the state of emergency was established, as a result of the effects of the SARS-CoV-2 coronavirus epidemic, the owners or users of the buildings were obliged, according to law, to totally interrupt the economic activity or holds the certificate for emergency situations issued by the Ministry of Economy, Energy and the Business Environment which certifies the partial interruption of economic activity; (ii) exemption from the payment of the monthly tax on buildings due by concessionaires, tenants, holders of the right to administer or use a building the public or private property of the state or of the administrative-territorial units, as the case may be, if, during which the state of emergency was established as a result of the effects of the SARS-CoV-2 coronavirus epidemic, the users of the buildings were obliged, according to the law, to totally interrupt their economic activity.

- Interest, penalties and all accessories related to the main budgetary obligations, outstanding on March 31, 2020 inclusive, are canceled if the following conditions are cumulatively fulfilled: (i) all outstanding main budgetary obligations on March 31, 2020 inclusive, administered by the fiscal body central, are extinguished in any way, until the date of submission of the application for cancellation of accessories inclusive; (ii) are extinguished in any way, until the date of submission of the request for cancellation of accessories, including all main budgetary obligations and accessories administered by the central fiscal body with payment deadlines between April 1, 2020 and the date of submission of the request for cancellation of accessories inclusive; (iii) the debtor must have submitted all the fiscal declarations, according to the fiscal vector, until the date of submitting the request for cancellation of the accessories inclusive. This condition is also considered fulfilled if, for the periods in which no fiscal declarations were submitted, the fiscal obligations were established, by decision, by the central fiscal body; (iv) the debtor submits the request for cancellation of the accessories after the proper fulfillment of the conditions provided in points (i) - (iii), but not later than December 15, 2020 inclusive, under the sanction of forfeiture
- The interests, penalties and all accessories related to the main budgetary obligations with maturities prior to March 31, 2020 inclusive and extinguished until this date are canceled if the conditions provided in let. (i) - (iv)

The legal basis for the above is represented by the *Press release of the National Agency for Fiscal Administration¹ of March 16, 2020* and *Emergency Ordinance no. 29/2020 on economic, tax and budgetary measures; and Emergency Ordinance 69/2020.*

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¹ https://static.anaf.ro/static/3/Anaf/20200316144225_comunicatdepresa16martie.pdf