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NEWSLETTER

THIS NEWSLETTER AIMS TO PRESENT THE RECENT LEGISLATIVE CHANGES THAT MAY IMPACT YOUR BUSINESS.

THIS PUBLICATION DOES NOT CONTAIN LEGAL ADVICE AND / OR FISCAL, SOLELY GENERAL INFORMATION. WE RECOMMEND REQUESTING PROFESSIONAL LEGAL ADVICE PRIOR TO IMPLEMENTING ANY DECISION BASED ON THIS NEWSLETTER.

SUMMARY

GEO REPAYMENT OF AMOUNTS REF. POLLUTION TAX AND ENVIRONMENTAL STAMP	2
FORM TEMPLATE REGARDING VEHICLE TAX RETURNS APPROVED	2
FORM 110 – REGULARIZATION DECLARATION/INCOME TAX RETURN APPLICATION.	2
GOVERNMENT ORDINANCE NO. 23/2017 - THE VAT SPLIT PAYMENT.	3
GOVERNMENT EMERGENCY ORDINANCE NO. 53/2017	4

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GEO REPAYMENT OF AMOUNTS REF. POLLUTION TAX AND ENVIRONMENTAL STAMP

On Friday, August 4, 2017, the Government of Romania adopted an emergency ordinance on the repayment of the special tax for motor vehicles, the pollution tax for motor vehicles, the tax on pollutant emissions from motor vehicles and the environmental stamp for motor vehicles.

The beneficiaries of this ordinance are taxpayers who have paid the special tax for motor vehicles, the pollution tax for motor vehicles, the tax on pollutant emissions from motor vehicles, and the environmental stamp for motor vehicles that have not benefited from a refund and that shall request in writing, to the competent central fiscal body, until 31 August 2018, with the penalty of forfeiture, the repayment of the sums paid and the related interest due for the period between the date of collection and the date of the restitution.

The application model shall be approved, by common order, by the Ministry of Environment and the Ministry of Public Finance, within 15 days from the entry into force of the Ordinance, and the methodological norms for application, within 60 days.

FORM TEMPLATE REGARDING VEHICLE TAX RETURNS APPROVED

Order no. 1144/1672/2017 for the approval of the form template regarding the reimbursement of sums representing the special tax to vehicles, the pollution tax for vehicles, the vehicle-sourced polluting emissions tax, the environment stamp for vehicles was published in the Official Journal of Romania, Part I, no. 688 on the 24th of August 2017.

FORM 110 – REGULARIZATION DECLARATION/INCOME TAX RETURN APPLICATION.

On Thursday, the 22nd of August 2017, the National Agency for Fiscal Administration launched into public debate the draft order for the approval of Form 110's template and content.

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GOVERNMENT ORDINANCE NO. 23/2017 - THE VAT SPLIT PAYMENT.

The VAT split payment mechanism will be mandatory from 1 January 2018, and optional from 1 October 2017, according to Ordinance no. 23/2017.

The VAT split payment mechanism was approved without any substantial amendments compared to the updated Project of the Government's Ordinance, published on 18 August 2018

Under the split payment system, taxable persons which are registered for VAT purposes are liable to open at least one dedicated VAT account, either with a bank or with the State Treasury. The dedicated VAT account must be utilized for:

1. encashing from customers the portion of the receivable which corresponds to the value of the VAT amount charged;
2. paying to suppliers the portion of the payable which corresponds to the value of the charged VAT;
3. paying the VAT liability towards the State Budget;
4. transferring amounts to another dedicated VAT account belonging to the same person/entity.

Consequently, all taxable persons and public institutions registered for VAT purposes under art. 316 of the Fiscal Code will be required to open separate VAT accounts for receiving and making VAT payments. VAT accounts will be opened, by default, with the various treasury units within the tax offices where taxpayers are registered.

Exclusions

The split payment system is not applicable for:

- deliveries which are subject to the reverse-charge mechanism (i.e. VAT is not invoiced by the supplier, but assessed by the beneficiary under the reverse-charge mechanism);

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- deliveries and supplies which are subject to special regimes (i.e. (i) small enterprises exemption regime; (ii) tour operators' margin scheme; (iii) special regime for second hand goods, art goods, collectibles and antiques; (iv) special regime for investment gold; (v) special regime for electronic and telecom services and (vi) special regime for agriculture);
- acquisitions performed by individuals which are taxable persons but are not registered and do not have the liability to register for VAT purposes (no liabilities lay with the payer, but the entity encashing such amounts has to transfer the encashed amounts which correspond to the levied VAT in the dedicated VAT account);
- payments performed in cash or by credit/debit cards (no liabilities lay with the payer, but the entity encashing such amounts has to transfer the encashed amounts which correspond to the levied VAT in the dedicated VAT account).

The dedicated VAT accounts shall contain the letters "VAT" as part of their IBAN in order to allow for an easy identification. Banks may (but are not required to) open accounts for their clients automatically.

GOVERNMENT EMERGENCY ORDINANCE NO. 53/2017

Government Emergency Ordinance No. 53/2017 ("**GEO No. 53/2017**") which brings a set of amendments and supplementations to the Labor Code, mostly as regards the control of undeclared work, was published in the Romanian Official Journal, Part I No. 644 of 7 August 2017.

Amendments to the Labor Code by GEO no. 53/2017, published on August 7, 2017, have as their primary purpose the fight against undeclared work and mainly target:

- Define the concept of undeclared work;
- The sanctioning regime;
- Introducing new obligations for employers;

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As per the GEO no. 53/2017, The concept of “undeclared work” is defined as follows:

- a) Employing a person without executing a written individual employment agreement on the day preceding the commencement of work;
- b) Employing a person without notifying the employment relationship to the general register for the record of employees no later than on the day preceding the commencement of work;
- c) Employing an employee during the period when the individual employment agreement of such employee is suspended; and
- d) Employing an employee outside the work schedule provided in the part-time individual employment agreements.

It has been expressly provided that the individual employment agreement must be concluded before the employee starts working and that the employer has the obligation to execute the agreement in written form.

The employer has the obligation to keep records of the hours worked by each employee on a daily basis, indicating the starting and ending hours of the work program, and to submit to the labor inspectors this record whenever this is required.

The Ordinance states that the employer is required to keep, copies of individual employment agreements at the workplace, for employees who carry out activities in that location.

The amendments brought to the individual employment agreement must be provided in an addendum before such amendment is made and notified to the authorities and recorded in Revisal prior, except for the case when the amendments are expressly provided by the law or the applicable collective bargaining agreement – in which case they are applicable independently from the execution of an addendum and no matter if an addendum is executed or no

New misdemeanors and related fines have been provided as follows:

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- a) Employing a person without notifying the employment relationship to the general register for the record of employees no later than on the day preceding the commencement of work – a fine of RON 20,000 for each identified person;
- b) Employing an employee during the period when the individual employment agreement of such employee is suspended - a fine of RON 20,000 for each identified person;
- c) Employing an employee outside the work schedule provided in the part-time individual employment agreements - a fine of RON 10,000 for each identified person;
- d) Breach of employer's obligation to keep at the place of work a copy of the individual employment agreement for the employees working in such place - a fine of RON 10,000.

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