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Fiscal Bulletin



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Procedure for the amnesty of gift vouchers (OPANAF 906/2023)

Under Law 43/2023, the differences of principal and ancillary tax obligations established as a result of the reclassification of income from gift vouchers obtained by individuals from persons other than employers from the category of income from other sources to the category of income from salaries and assimilated to salaries are annulled. Thus, OPANAF 906/2023 approves the following:

- Procedure for the preparation and transmission by the tax control department of the list of tax obligations that may be subject to annulment under Law 43/2023;
- Procedure for the annulment of tax obligations subject to annulment under Law 43/2023, as well as the procedures for their refund;
- Model form "Decision of annulment of tax obligations under Law 43/2023";
- Model form "Request for annulment of tax obligations under Law 43/2023";
- Model form "Decision rejecting the request for annulment of tax obligations under Law 43/2023";
- Model form "Request for refund of tax obligations under Law 43/2043".

Therefore, the following situations may arise in practice:

- The tax authorities annul the tax obligations subject to Law 43/2023 by going through this specific procedure;
- The taxpayers may request the annulment of the tax obligations, case in which the specialized department verifies if the specific conditions are met;
- The taxpayers whose tax obligations for which the law provides for annulment have been totally or partially extinguished may request a refund of such amounts.

Tax facilities in the agricultural sector and in the food industry (OMF 2043/2023)

OMF 2043/2023 amends the Procedure for granting tax facilities in the agricultural sector and in the food industry, as follows:

- The provisions of the Procedure are correlated with the amendments made by GEO 16/2022 (respectively, granting the facilities only to individuals who obtain income from salaries **for the activity carried out in Romania, based on the individual employment contract**; amendment of the monthly ceiling up to which the facilities are granted to **RON 10,000**);
- The notion of the employer is extended, referring also **to any entity without legal personality**, which (i) carries out activities defined by at least one of the NACE codes provided by the Tax Code, (ii) cumulatively fulfills the conditions for granting the tax facilities and (iii) can conclude individual employment contracts;
- The formula for calculating the turnover actually achieved from activity in the agricultural sector and in the food industry is updated to include income from the commercialization of products purchased from own members for resale by agricultural producer groups and organizations, producer organizations, and other associations in the fruit and vegetable sector, and also by agricultural cooperatives. In addition, when determining the turnover actually achieved from activity in the agricultural sector and in the food industry, income from the sale of products, including **through own sales units**, shall be taken into account;
- It is expressly stated that the granting of tax facilities is the responsibility of the employer/income payer.

Tax facilities in the construction sector (OMF 2044/2023)

OMF 2044/2023 amends the Procedure for granting tax facilities in the construction sector as follows:

- The provisions of the Procedure are correlated with the amendments made by

- (i) GEO 16/2022 (respectively, granting the facilities only to individuals who obtain income from salaries and assimilated to salaries **for the activity carried out in Romania, based on the individual employment contract**; for the calculation of the turnover, **only information from the current year is taken into account**; for the calculation of both the actual turnover and the total turnover, the income from the activity carried out on the territory of Romania is taken into account; amendment of the monthly ceiling up to which the facilities are granted to **RON 10,000**) and (ii) GEO 168/2022 (respectively, for the construction sector, the minimum gross basic salary per country is **RON 4,000/month**);
- In cases where the gross monthly income from salaries and assimilated to salaries earned under an individual employment contract is less than RON 4,000/month, the tax facilities are granted only if the condition that they are calculated on the basis of a gross basic salary at least equal to the minimum gross basic salary per country of at least RON 4,000/month is met (for example, in cases where the individual employment contract starts/ends during the month, the employee has taken unpaid leave, etc.);
 - It is expressly stated that the granting of tax facilities is the responsibility of the employer/income payer.

Editors

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