

10 January 2019

# Fiscal Bulletin



## Summary:

1. **Legislative measures with significant impact in certain industry sectors introduced by the Government Emergency Ordinance No. 114/ 2018 implementing measures in the field of public investments and fiscal-budgetary measures, amending and supplementing normative acts and extending certain deadlines (“GEO 114/2018”)**

## GEO 114/2018

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On 29 December 2018, GEO 114/2018 was published in the Official Gazette of Romania No. 1116, implementing among others, significant measures impacting certain industry sectors. Below we present the main amendments covered by this enactment.

### 1. Tax on financial assets

Starting with 1 January 2019, the banks are liable to pay the tax on financial assets quarterly, if the ROBOR quarterly average is higher than 2% (the ROBOR quarterly average is established based on ROBOR rates at 3 months and 6 months, computed and published by the National Bank of Romania for the last quarter / semester prior to the quarter of calculation).

The tax on financial assets is computed by applying certain rates on the value of the taxpayer’s financial assets registered at the end of the quarter of calculation.

The rates of the tax on financial assets vary depending on the percentage exceeding the reference threshold, as follows:

- If the ROBOR quarterly average is up to 0.5 percentage points, inclusively, above the reference threshold, the rate is 0.1%;
- If the ROBOR quarterly average is between 0.51 - 1 percentage points, inclusively, above the reference threshold, the rate is 0.2%;
- If the ROBOR quarterly average is between 1.01 - 1.5 percentage points, inclusively, above the reference threshold, the rate is 0.3%;
- If the ROBOR quarterly average is between 1.51 - 2 percentage points, inclusively, above the reference threshold, the rate is 0.4%;

- If the ROBOR quarterly average is higher than 2 percentage points above the reference threshold, the rate is 0.5%.

The banks are liable to compute, declare and pay such tax quarterly, until the 25<sup>th</sup> of the month following the quarter for which the tax is due. From a corporate income tax point of view, the expense recorded with the tax on financial assets represents a deductible expense.

These provisions shall apply starting the 1 January 2019, therefore the first reporting and payment deadline is the 25 April 2019 for the tax on assets related to the first quarter of 2019.

## **2. Additional tax measures for the online gambling organizers**

Starting with 1 January 2019, the online gambling organizers mentioned in Government Emergency Ordinance No. 77/2009 have the obligation to pay a monthly tax representing 2% of the total participation fees charged monthly.

The tax is computed, declared and paid to the State budget until the 25<sup>th</sup>, inclusively, of the month following the one in which the participation fees were collected.

## **3. The increase of cash contributions due by the electricity operators**

The electricity operators carrying out activities in the electricity sector should pay a cash contribution of 2% applied to the turnover.

## **4. Tax incentives for income obtained by the employees working in the construction sector**

### **a. Income tax**

The category of individuals exempted from income tax is extended. Thus, between 1 January 2019 and 31 December 2028, tax exemptions shall apply to employees working in the construction sector.

To qualify for exemption, the following conditions must be cumulatively met:

- Employers must carry out activities in the construction sector that include:
  - i. The construction activity defined under NACE code 41.42.43 - Section F - Constructions;
  - ii. Areas of production of building materials, defined under certain NACE codes listed under GEO 114/2018.
- Employers must register a turnover from construction activities of at least 80% of the total turnover;
- The gross income earned by individuals qualified for the exemption must be between RON 3,000 and RON 30,000.

**b. Social security contribution ("CAS")**

The CAS rate for employees in the construction sector qualifying for the exemption has been decreased from 25% to 21.25% for the period from 1 January 2019 to 31 December 2028.

Moreover, employers in this sector are exempted from paying CAS for the work performed by employees under special, extraordinary or other work conditions, as well as from paying the work insurance contribution.

**c. Social Health Insurance Contribution ("CASS")**

This category of employees shall also benefit from CASS exemption for the period from 1 January 2019 to 31 December 2028, being insured, during this time, in the social health insurance system without actual paying the contribution.

These changes regarding the salary income obtained from employers in the construction sector shall apply to the income obtained as of January 2019.

**5. Measures for State-owned companies**

The State-owned companies under Government Ordinance No. 26/2013 shall distribute and transfer, within 60 days following the date of approval of the financial statements related to 2018, dividends or payments to the State budget representing 35% of the amounts allocated to other reserves.

**6. Amendments to Electricity and Natural Gas Law No. 123/2012**

GEO 114/2018 amends Electricity and Natural Gas Law No. 123/2012. Among the most important amendments, we mention the following:

- During 1 April 2019 - 28 February 2022, producers, including their subsidiaries and/or affiliates belonging to the same economic interest group, carrying out extraction activities and selling natural gas extracted from Romania, have the obligation to sell the quantities of natural gas resulting from current domestic production activity to eligible end suppliers and customers, for the price of RON 68 /MWh;
- In case such obligation is not fulfilled, a fee shall be applied amounting to 10% of the turnover of the year preceding the application of such fee.

**7. The specific excise duty on cigarettes**

The total excise duty for cigarettes has been increased to RON 483.74 /1,000 cigarettes.

Thus, between 1 January 2019 and 31 March 2019, the specific excise duty on cigarettes is RON 372.73 /1,000 cigarettes.

## 8. Amendments regarding the VAT

Reverse charge measures for grain delivery, transfer of greenhouse gas emission certificates, electricity delivery, green certificates transfer, mobile phone delivery, integrated circuit devices, gaming consoles, tablets and laptops have been extended until 30 June 2022.

## 9. Amendments regarding the pensions - Second Pension Pillar

A person participating in a pension fund may opt, following a minimum 5-year term of participation in the fund, to transfer the funds to the public pension system. Funds held on the transfer date shall remain in the participant's personal account until the right to the private pension is obtained.

Pension administrators will have greater obligations regarding the minimum share capital, namely:

- 5% of the amount of the contributions, if such is under EUR 100 million;
- 7% of the amount of the contributions, if such is between EUR 100 million and EUR 500 million;
- 10% of the amount of the contributions, if such is over EUR 500 million.

In addition, the administration fees have been reduced.

## 10. Amendments to Government Emergency Ordinance No. 111/2011 on electronic communications

GEO 114/2018 brings amendments in the electronic communications sector. Among the most important amendments we mention:

- In order to grant licenses for the use of radio frequencies through competitive or comparative selection procedures, the minimum values are set at 2%, respectively 4% of the turnover, depending on the type of radio frequency band;
- The extension of the validity period of the license to use radio frequencies granted through the selection procedure is subject to the payment to the State budget of a license fee of 4% of the turnover of the year preceding the license extension, multiplied by the number of years for which the license is granted;
- In case of using radio frequencies without a license or after expiry of the validity period thereof, penalties shall be calculated for each day of use without license. Such penalty is computed for each day of delay and represents 0.1% of the turnover obtained in the previous year from electronic communications activities.

## Editors

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