

06 August 2019

Fiscal Bulletin



Summary:

1. Government Ordinance No. 6/2019 for the implementation of certain tax relief

Implementation of certain tax relief

On 5 August 2019, Government Ordinance No. 6/2019 for the implementation of certain tax relief (“GO 6/2019”) was published in the Official Journal of Romania No. 648. Under this act, taxpayers with outstanding liabilities to the national budget at the end of 2018 will be able to benefit from tax relief on payment of such debts.

GO 6/2019 provides two mechanisms for granting tax relief depending on the amount of the outstanding tax liabilities as at 31 December 2018 and refers to the following:

- Restructuring of the tax liabilities outstanding as at 31 December 2018 for debtors incurring debt exceeding RON 1 million, based on a restructuring plan;
- Write-off of ancillary liabilities for debts under RON 1 million or over RON 1 million (except for legal entities) for debtors that are not eligible for the restructuring measures.

1. Restructuring the tax liabilities outstanding as at 31 December 2018 - debts exceeding RON 1 million

The restructuring of the tax liabilities applies to public or private companies in financial difficulties, which face a risk of insolvency. The outstanding liabilities must be individualized in debt instruments/enforcement orders issued in 2019 inclusive, however for liabilities related to periods prior to 31 December 2018.

The eligibility requirements for such tax relief include the following: (i) the taxpayer should not be eligible for payment in instalment as provided by the Fiscal Procedure Code, (ii) the taxpayer should not be insolvent, etc.

The measures for restructuring tax liabilities which can be proposed in the restructuring plan are the following:

- Payment of the tax liabilities in instalments;

- Swap of the tax liabilities into shares, as regulated by the Fiscal Procedure Code;
- Offsetting the tax liabilities by giving in payment certain of the debtor's assets, according to the procedure regulated by the Fiscal Procedure Code;
- Write-off of maximum 50% of the outstanding tax liabilities (not applicable for state aid to be recovered);
- Write-off of ancillary amounts (late interest charges, penalties).

The measure of restructuring tax liabilities involves a laborious procedure, which mainly consists of having an independent expert prepare a restructuring plan, which will be submitted to the competent fiscal body together with the application for restructuring of tax liabilities.

Throughout the implementation of the measures in the restructuring plan, the central fiscal body will establish a supervisory regime for the debtor in order to ensure compliance with the provisions of the restructuring plan.

The restructuring measure can only be initiated within 6 months from the publication of GO 6/2019 in the Official Journal, while rules of implementation as regards such tax relief will be published within 15 days.

2. Write-off of ancillary liabilities

The write-off of the ancillary liabilities (late interest charges, late penalties) can be claimed by individuals, companies or entities without legal personality with outstanding liabilities (principal amounts of the tax liabilities) under RON 1 million as at 31 December 2018. Such relief can also be granted to individuals and entities without legal personality with debts exceeding RON 1 million.

The practical situations considered are the following:

- Write-off of ancillary amounts accruing on the outstanding tax liabilities, which are not paid until 31 December 2018;
- Write-off of ancillary amounts accruing on the tax liabilities arising prior to 31 December 2018 but paid until 31 December 2018;
- Write-off of ancillary amounts accruing on the tax liabilities related to the period prior to 31 December 2018 and established through notices of assessment issued subsequently to tax inspections that are ongoing on the effective date of GO 6/2019.

The requirements to be met include the following: until 15 December 2019 the debtors must pay all principal amounts outstanding as at 31 December 2018, as well as all principal and ancillary amounts that have a due date between 1 January 2019 and 15 December 2019; all the debtors' tax returns should have been submitted up to date.

The application for write-off of the ancillary liabilities must be submitted by 15 December 2019.

Within 30 days from the publication of GO 6/2019 in the Official Journal, rules of implementation as regards such tax relief will be published.

Editors

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Alexandru Cristea
Tax Partner
+4 037 413 61 15
alexandru.cristea@tuca.ro

TZ/A CONSULTANȚĂ FISCALĂ

TAX ENTITY OF ȚUCA ZBÂRCEA & ASOCIAȚII

Șos. Nicolae Titulescu nr. 4-8
America House, Aripa de Vest, et. 8
Sector 1, 011141, București, România
T + 4 021 204 88 90
F + 4 021 204 88 99
E office@tuca.ro
www.tuca.ro/tax

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