

28 October 2020

COVID-19 Fiscal Insights



Summary:

1. **Emergency Government Ordinance No. 181/2020 regarding certain fiscal - budgetary measures, for the amendment and completion of certain normative acts, as well as for the extension of certain terms**

Fiscal measures in the context of the economic difficulties caused by the COVID-19

In the context of the economic and financial difficulties caused by the COVID-19 pandemic, as well as the need to support the taxpayers' financial resources and to ensure collection of amounts to the State budget, the Romanian Government adopted the Emergency Ordinance No. 181/2020 regarding certain fiscal-budgetary measures, for the amendment and completion of certain normative acts, as well as for the extension of certain terms ("EOG No. 181/2020"), published in the Official Gazette No. 899/26.10.2020.

In the following we present the main aspects included in the mentioned normative act:

1. **Simplified payment rescheduling procedure for budgetary obligations due after the declaration of the state of emergency**

The Ordinance introduces a simplified alternative procedure for granting payment rescheduling for a maximum period of 12 months for the main and ancillary budgetary obligations which are due subsequent to the date of declaring the state of emergency (respectively, 16 March 2020) by the date of issuing the tax certificate.

The taxpayer, regardless of the form of ownership, can benefit from this tax facility under certain conditions, such as:

- The taxpayer should submit to the relevant tax authorities an application for granting the payment rescheduling no later than 15 December 2020, together with the proposed repayment calendar, if applicable;
- The taxpayer should not be in bankruptcy procedure/dissolved;

- The taxpayer should not register outstanding tax liabilities on the date of declaring the state of emergency and unpaid at the issuing date of the tax certificate;
- The taxpayer's liability/joint liability has not been established as per the insolvency law or as per the Fiscal Procedure Code, with certain exceptions;
- The taxpayer submitted all tax returns, according to its fiscal vector.

Following the submission of the application for granting the payment rescheduling, the tax authorities issue, within 5 working days, the certificate attesting the timely payment of tax liabilities, as well as the decision to grant/reject the payment rescheduling.

It is also specified that the tax obligations included in tax decisions issued as a result of a tax inspection in progress on the date of entry into force of the EOG No. 181/2020 may also be subject to payment rescheduling.

As in the case of the normal payment rescheduling procedure, according to the Fiscal Procedure Code, during the simplified payment rescheduling procedure, taxpayers owe, starting 26 December 2020, interest in the amount of 0.01% for each day of delay. For the late payment of installments/loss of validity of the payment rescheduling, penalties amounting to 5% of the outstanding amounts will be due.

Compared to the existing procedure for granting payment rescheduling, the main advantages of the newly introduced procedure are that no collateral/warranty is required and that the debtor can establish its own repayment calendar. The current procedure is also simplified in terms of the necessary documentation, as well as the approval deadline.

The application procedure will be published within 15 days from the date of entry into force of EOG No. 181/2020.

2. Extension of deadlines established by Emergency Government Ordinance No. 29/2020 regarding fiscal-budgetary measures ("EOG No. 29/2020") and Emergency Government Ordinance No. 48/2020 regarding new fiscal - budgetary measures ("EOG No. 48/2020")

The ordinance provides for the extension, by 25 December 2020, of the deadlines by when the following measures are in force:

- Interest and late payment penalties are not calculated/owed, in case of tax obligations due starting with 21 March 2020 and unpaid; such tax obligations are not considered outstanding.
- Suspension or non-commencement of enforcement by garnishment of budgetary obligations, with certain exceptions.

It is also extended until 25 January 2021, the period in which the VAT refunds are granted with subsequent fiscal inspections, under the conditions provided by art. XI of EOG No. 48/2020, as subsequently amended and completed.

3. Exemption from specific tax (HoReCa industry)

Taxpayers who owe specific tax related to certain activities, according to Law No. 170/2016, do not owe the specific tax for the period between the date of entry into force of EOG No. 181/2020 and 31 December 2020.

In order to apply the facility, taxpayers will recalculate the tax due for 2020 by dividing the specific tax due for 2020 to 365 calendar days and multiplying the resulting value with the number of days obtained from subtracting from the 365 calendar days, the number of days between the date of entry into force of EOG No. 181/2020 until the end of 2020, and 90 calendar days provided by the Emergency Government Ordinance No. 99/2020, as well as the period in which they interrupted the economic activity, totally or partially, as a result of the state of emergency, as the case may be.

4. Reduction of the building tax

According to the EOG No. 181/2020, the local public authorities have the possibility to adopt, by 2 December 2020, decisions regarding the reduction of the annual building tax by up to 50% or the exemption from the payment of the monthly building tax, as follows:

- Reduction of the annual tax on buildings with a rate 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, if during the period for which the state of emergency and/or alert was established, due to the effects of the pandemic, the owners or users of the buildings were obligated, according to the law, to interrupt economic activity or hold the certificate for emergency;
- Exemption from the payment of the monthly building tax due by concessionaires, tenants, holders of the right to administer or use a public or private property of the state, if during the period for which the state of emergency and/or alert was established, the users of the buildings were obligated, according to the law, to completely interrupt their economic activity.

If the competent local authorities adopt decisions for granting the reduction of the tax on non-residential buildings, in order to benefit from such decisions, the owners of the buildings have the obligation to submit an application for the reduction to the local tax authority by 21 December 2020, together with an affidavit, respectively with the emergency certificate.

5. Suspension of the penalty regarding the remote connection of the fiscal electronic cash registers to the computer system of tax administration

EOG No. 181/2020 provides for the suspension of the sanction for non-compliance with the obligation of economic operators to ensure the connection of electronic fiscal cash registers to the computer system of the tax authorities, by 31 December 2020.

6. Extension of the period for submitting the notification of the intention to restructure budgetary obligations

The period in which debtors wishing to restructure their budgetary obligations, as per Ordinance No. 6/2019 may notify the competent tax authorities is extended, covering the period from 1 November 2020 to 31 March 2021 also.

Subsequently, the restructuring request may be submitted no later than 30 June 2021 (extension from 31 December 2020).

7. Clarification of the tax treatment applicable to the costs of medical tests for the diagnosis of COVID-19 infection

EOG No. 181/2020 introduces provisions for amending the Fiscal Code. As such, the expenses incurred by taxpayers for voluntary testing to diagnose COVID-19 infection have the following tax regime:

- Deductible expenses for the purpose of calculating the annual net income for independent activities;
- Non-taxable, from the perspective of income tax on salaries and related social contributions.

andreea.florian@tuca.ro

erika.andras@tuca.ro

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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