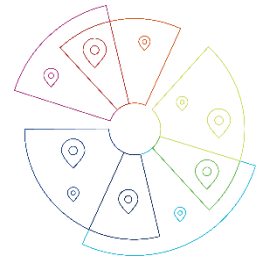


TAX NEWS

9/2023



Stimati parteneri,

Va transmitem mai jos mai multe modificari legislative ce au intrat in vigoare in perioada Aprilie - Iunie 2023

❖ **Legea nr. 125/2023 privind completarea Legii nr. 241/2005 pentru prevenirea si combaterea evaziunii fiscale**

In vigoare de la 25 mai 2023

Constituie infractiune si se pedepseste cu inchisoare de la 7 la 15 ani si interzicerea exercitarii unor drepturi orice actiune sau inactiune comisa in cadrul unor scheme frauduloase cu caracter transfrontalier avand ca efect diminuarea cu cel putin 10.000.000 euro, in echivalentul monedei nationale, a resurselor bugetului Uniunii Europene, prin:

- a)** utilizarea sau prezentarea de declaratii sau documente false, incorecte sau incomplete privind TVA;
- b)** nedivulgarea de informatii privind TVA, atunci cand aceste informatii trebuie divulgate potrivit legii;

Dear collaborators,

Below are several legislative changes that entered into force between April and June 2023

❖ **Law no. 125/2023 regarding the completion of Law no. 241/2005 for preventing and combating tax evasion**

In force from May 25th , 2023

It constitutes a crime and is punishable by imprisonment from 7 to 15 years and the prohibition of the exercise of certain rights, any action or inaction committed within fraudulent schemes of a cross-border nature, having the effect of reducing by at least 10,000,000 euros, in the equivalent of the national currency, the resources the budget of the European Union, through:

- a)** the use or presentation of false, incorrect or incomplete declarations or documents regarding VAT;
- b)** non-disclosure of VAT information, when this information must be disclosed according to the law;

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c) prezentarea de declaratii corecte privind TVA pentru a masca in mod fraudulos neplata sau constituirea unor drepturi necuvenite la rambursari de TVA.

❖ **Legea nr. 88/2023 pentru modificarea si completarea Legii nr. 227/2015 privind Codul fiscal**

In vigoare de la 11 iunie 2023

Sunt scutite de taxa urmatoarele:

a) serviciile de construire, reabilitare, modernizare de unitati spitalicesti din reseaua publica de stat, precum si serviciile de construire, reabilitare, modernizare de unitati spitalicesti prestate catre entitati nonprofit inscrise in Registrul public organizat de ANAF **daca acestea sunt destinate unitatilor spitalicesti detinute si exploatate de entitatea nonprofit sau celor din reseaua publica de stat, dupa caz;**

b) livrarile de echipamente medicale, aparate, dispozitive, articole, accesorii si echipamente de protectie, materiale si consumabile de uz sanitar, precum si adaptarea, repararea, inchirierea si leasingul unor astfel de bunuri, efectuate catre unitati spitalicesti din reseaua publica de stat, precum si cele efectuate catre entitati nonprofit inscrise in Registrul public organizat de ANAF **daca acestea sunt destinate unitatilor spitalicesti detinute si exploatate de entitatea nonprofit sau celor din reseaua publica de stat, dupa caz;**

c) livrarea de proteze si accesorii ale acestora, cu exceptia protezelor dentare scutite de taxa conform art. 292 alin. (1) lit. b) din Codul Fiscal;

c) the presentation of correct declarations regarding VAT in order to fraudulently mask non-payment or the creation of improper rights to VAT refunds.

❖ **Law no. 88/2023 for the amendment and completion of Law no. 227/2015 regarding the Tax Code**

In force from June 11th , 2023

The following are exempt from the tax:

a) the construction, rehabilitation, modernization services of hospital units from the state public network, as well as the construction, rehabilitation, modernization services of hospital units provided to non-profit entities registered in the Public Register organized by ANAF **if they are intended for owned and operated hospital units by the non-profit entity or those from the state public network, as the case may be;**

b) deliveries of medical equipment, devices, devices, articles, accessories and protective equipment, materials and consumables for sanitary use, as well as the adaptation, repair, rental and leasing of such goods, carried out to hospital units in the state public network, as well as those made to non-profit entities registered in the Public Register organized by ANAF **if they are intended for hospital units owned and operated by the non-profit entity or those in the state public network, as the case may be;**

c) delivery of prostheses and their accessories, with the exception of dental prostheses exempt from tax according to art. 292 para. (1) lit. b) from the Tax Code;

d) livrarea de produse ortopedice;

Scutirea de TVA pentru livrarile de bunuri/prestarile de servicii se aplica:

a) direct, prin facturare fara TVA de catre furnizorii de bunuri/prestatorii de servicii daca beneficiarul livrarii/prestarii este unitatea spitaliceasca din reseaua publica de stat sau, dupa caz, institutia/autoritatea publica centrala sau locala, care asigura finantarea acesteia, potrivit legii;

b) prin restituirea TVA aferente achizitiilor de bunuri sau servicii efectuate de entitatile nonprofit, potrivit unei proceduri stabilite prin ordin al ministrului finantelor publice. Sumele restituite de la bugetul de stat se utilizeaza de catre entitatile nonprofit exclusiv pentru finantarea achizitiilor de bunuri si/sau Servicii;

Scutirile de TVA se aplica in conditiile prevazute in normele metodologice.

❖ **Legea nr. 93/2023 pentru completarea Legii nr. 207/2015 privind Codul de procedura fiscal**

In vigoare de la 21 aprilie 2023

Prin exceptie de la prevederile art. 167 Compensarea, din Codul de Procedura Fiscala, creantele fiscale ale contribuabilului, certe, lichide si exigibile, fata de bugetele locale, stabilite prin hotarari judecatoresti definitive, se sting la cererea contribuabilului si prin compensarea acestora cu obligatiile sale restante, curente sau viitoare catre bugetul de stat, fara compensare intre bugete, indiferent daca obligatiile si, respectiv,

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d) delivery of orthopedic products;

The VAT exemption for the supply of goods/services applies:

a) directly, by invoicing without VAT by the suppliers of goods/service providers if the beneficiary of the delivery/service is the hospital unit from the state public network or, as the case may be, the central or local public institution/authority, which ensures its financing, according to the law ;

b) by returning the VAT related to the purchases of goods or services made by non-profit entities, according to a procedure established by order of the Minister of Public Finance. The sums returned from the state budget are used by non-profit entities exclusively for financing the purchase of goods and/or services;

VAT exemptions are applied under the conditions stipulated in the methodological norms.

❖ **Law no. 93/2023 to supplement Law no. 207/2015 regarding the Tax Procedure Code**

In force from April 21st , 2023

As an exception to the provisions of art. 167 Compensation, from the Tax Procedure Code, the taxpayer's tax claims, certain, liquid and payable, against the local budgets, established by final court decisions, are extinguished at the request of the taxpayer and by offsetting them with his outstanding, current or future obligations to the budget by the state, without compensation between budgets,

creantele supuse stingerii sunt administrate sau nu de aceeași autoritate publică.

Procedura de stingere și schimb de informații între organele fiscale locale și organele fiscale centrale se aprobă prin ordin comun al ministrului finanțelor și al ministrului dezvoltării, lucrărilor publice și administrației, inițiat la propunerea ANAF.

- ❖ **Ordonanța de urgență nr. 20/2023 pentru modificarea și completarea Legii nr. 207/2015 privind Codul de procedură fiscală, precum și pentru modificarea Ordonanței Guvernului nr. 6/2019 privind instituirea unor facilități fiscale**

In vigoare de la 06 aprilie 2023

- Se modifică procedura de acordare a esalonării la plată de către organul fiscal central

Organul fiscal central acordă la cererea debitorilor esalonări la plată pe o perioadă de cel mult 5 ani, dacă sunt îndeplinite condițiile de acordare a acestora. Pentru debitorii care nu au în proprietate bunuri în vederea constituirii de garanții și nici nu pot constitui niciun fel de garanție ori cuantumul garanțiilor constituite este mai mic de 50% față de cuantumul obligațiilor fiscale restante ce fac obiectul înlesnirilor la plată, esalonarea se acordă pe cel mult 6 luni.

Sunt excluse din sfera esalonării la plată obligațiile fiscale/bugetare reprezentând ajutor de stat sau de minimis de recuperat acordat din surse sau resurse de stat ori gestionate de stat și accizele prevăzute la Titlul VIII din Codul fiscal.

regardless of whether the obligations and, respectively, the debts subject to extinguishment are administered by the same public authority or not.

The procedure for extinguishing and exchanging information between the local fiscal bodies and the central fiscal bodies is approved by a joint order of the Minister of Finance and the Minister of Development, Public Works and Administration, initiated at the proposal of ANAF.

- ❖ **Emergency ordinance no. 20/2023 for the amendment and completion of Law no. 207/2015 regarding the Tax Procedure Code, as well as for the amendment of Government Ordinance no. 6/2019 regarding the establishment of fiscal facilities**

In force from April 6th, 2023

- The procedure for granting payment deferment by the central fiscal body is changed

At the request of the debtors, the central fiscal body grants installment payments for a period of no more than 5 years, if the conditions for granting them are met. For debtors who do not own any assets in order to constitute guarantees and cannot constitute any kind of guarantee, or the amount of the established guarantees is less than 50% compared to the amount of the outstanding fiscal obligations that are the subject of the payment facilities, the installment is granted on the long 6 months. Fiscal/budgetary obligations representing state aid or de minimis to be recovered granted from state sources or resources or managed by the state and excise duties provided for in Title VIII of the Tax Code are

In cazul debitorilor care nu detin bunuri in proprietate ori cuantumul garantiilor constituite este mai mic de 50% fata de cuantumul obligatiilor fiscale restante ce fac obiectul inlesnirilor la plata, situatia de dificultate generata de lipsa temporara de disponibilitati banesti si capacitatea financiara de plata pe perioada de esalonare la plata se mentioneaza de debitor in cererea de acordare a esalonarii la plata.

Organul fiscal poate acorda esalonarea la plata daca:

a) debitorul nu detine in proprietate bunuri in vederea constituirii de garantii, caz in care esalonarea la plata se acorda pe cel mult 6 luni si penalitatile de intarziere cuprinse in certificatul de atestare fiscala nu se amana la plata si se includ in esalonare;

b) debitorul constituie garantii a caror valoare este mai mica de 50% fata de cuantumul obligatiilor fiscale restante ce fac obiectul inlesnirilor la plata, caz in care esalonarea la plata se acorda pe cel mult 6 luni si penalitatile de intarziere cuprinse in certificatul de atestare fiscala nu se amana la plata si se includ in esalonare;

c) debitorul constituie garantii a caror valoare este mai mare de 50% fata de cuantumul obligatiilor fiscale restante ce fac obiectul inlesnirilor la plata, dar insuficiente fata de cuantumul garantiilor, caz in care esalonarea la plata se acorda pe o perioada de cel mult 5 ani si penalitatile de intarziere cuprinse in certificatul de atestare fiscala nu se amana la

excluded from the scope of staggered payment.

In the case of debtors who do not own assets or the amount of the established guarantees is less than 50% compared to the amount of the outstanding tax obligations that are the subject of the payment facilities, the situation of difficulty generated by the temporary lack of money availability and the financial ability to pay for the period of staggered payment is mentioned by the debtor in the application for granting staggered payment.

The fiscal body can grant payment deferment if:

a) the debtor does not own property in order to establish guarantees, in which case the deferral of payment is granted for a maximum of 6 months and the late penalties included in the tax certification certificate are not deferred for payment and are included in the deferral;

b) the debtor provides guarantees whose value is less than 50% compared to the amount of the outstanding fiscal obligations that are the subject of the payment facilities, in which case the staggered payment is granted for a maximum of 6 months and the late penalties included in the fiscal attestation certificate the payment is not deferred and is included in the staggered;

c) the debtor provides guarantees whose value is greater than 50% compared to the amount of the outstanding fiscal obligations that are the subject of the payment facilities, but insufficient compared to the amount of the guarantees, in which case the staggered payment is granted for a period of no more than 5 years and the late

plata si se includ in esalonare.

In cazul debitorilor care nu detin bunuri in proprietate ori cuantumul garantiilor constituite este mai mic de 50% fata de cuantumul obligatiilor fiscale restante ce fac obiectul inlesnirilor la plata, cererea poate fi insotita de o propunere de grafic de esalonare la plata.

Contribuabilul poate depune o singura cerere de modificare a deciziei de esalonare la plata intr-un an calendaristic sau, dupa caz, fractie de an calendaristic.

Debitorii care au depus o singura cerere de modificare sau mentinere a esalonarii la plata, aprobata de ANAF, in perioada cuprinsa intre data de 1 ianuarie 2023 si data intrarii in vigoare a OUG nr. 20/2023, pentru perioada ramasa din anul 2023 mai pot depune o singura cerere de modificare sau mentinere a esalonarii la plata.

In cazul in care debitorul depune prima cerere de modificare sau mentinere dupa data intrarii in vigoare a OUG nr. 20/2023, pentru perioada ramasa din anul 2023, acesta poate beneficia doar de aceasta modificare sau mentinere a esalonarii la plata.

In cazul esalonarilor la plata aflate in derulare sau care si-au pierdut valabilitatea la data intrarii in vigoare a OUG nr.20/2023, cererile de modificare sau mentinere a esalonarii la plata care sunt nesolutionate la aceasta data se solutioneaza potrivit acestei ordonante. 4

payment penalties included in the fiscal attestation certificate are not deferred for payment and are included in the staggered payment.

In the case of debtors who do not own property or the amount of the established guarantees is less than 50% compared to the amount of the outstanding fiscal obligations that are the subject of the payment facilities, the request can be accompanied by a proposal for a payment schedule.

The taxpayer can submit a single request for modification of the payment deferral decision in a calendar year or, as the case may be, a fraction of a calendar year.

Debtors who have submitted a single application for modification or maintenance of the staggered payment, approved by ANAF, in the period between January 1st , 2023 and the entry into force of GEO no. 20/2023, for the remaining period of 2023, I can submit only one request to modify or maintain the staggered payment.

If the debtor submits the first request for modification or maintenance after the entry into force of GEO no. 20/2023, for the remaining period of 2023, he can only benefit from this modification or maintenance of the staggered payment.

In the case of payment schedules that are ongoing or that have lost their validity on the date of entry into force of GEO no. 20/2023, requests to modify or maintain the payment schedule that are unresolved at this date are resolved according to this ordinance. 4

Includerea in esalonare se efectueaza cu mentinerea perioadei de esalonare deja aprobate, cu exceptia situatiei in care valoarea garantiilor constituite de debitori este mai mica de 50% fata de cuantumul obligatiilor fiscale restante ce fac obiectul inlesnirilor la plata, caz in care perioada de esalonare este de cel mult 6 luni de la data comunicarii deciziei de modificare a deciziei de esalonare la plata.

Debitorul va avea posibilitatea de a solicita, o singura data intr-un an calendaristic sau fractie de an calendaristic, mentinerea unei esalonari a carei valabilitate a fost pierduta, daca cererea este aprobata de ANAF inainte de executarea garantiei sau inainte de stingerea tuturor obligatiilor fiscale care au facut obiectul esalonarii la plata, dupa caz.

- Se modifica procedura de esalonare la plata, in forma simplificata, pentru obligatiile fiscale administrate de organul fiscal central

Nu intra in sfera esalonarii la plata, in forma simplificata, obligatiile fiscale care reprezinta accize, impozitele si contributiile sociale obligatorii cu retinere la sursa sau retinute prin stopaj la sursa, asa cum sunt definite de Codul fiscal, si taxele aferente activitatilor din domeniul jocurilor de noroc.

Se completeaza conditiile de mentinere a esalonarii la plata, in forma simplificata, cu alte doua conditii:

- achitarea accizelor si a taxelor aferente activitatilor din domeniul

The inclusion in the staggered period is carried out with the maintenance of the already approved staggered period, with the exception of the situation in which the value of the guarantees provided by the debtors is less than 50% compared to the amount of the outstanding fiscal obligations that are the subject of the payment facilities, in which case the staggered period is no more than 6 months from the date of communication of the decision to change the decision to postpone the payment.

The debtor will have the opportunity to request, only once in a calendar year or fraction of a calendar year, the maintenance of an installment whose validity has been lost, if the request is approved by ANAF before the execution of the guarantee or before the extinguishment of all fiscal obligations that they were the object of payment deferral, as the case may be.

- The payment deferral procedure is changed, in a simplified form, for fiscal obligations administered by the central fiscal body

It does not fall within the scope of staggered payment, in a simplified form, fiscal obligations that represent excises, taxes and mandatory social contributions with withholding at source or withheld at source, as defined by the Tax Code, and taxes related to activities in the field of gambling luck.

The conditions for maintaining the staggered payment are supplemented, in a simplified form, with two other conditions:

- payment of excise duties and taxes related to activities in the field of

jocurilor de noroc, nestinse la data comunicarii deciziei de esalonare la plata si care nu fac obiectul esalonarii la plata, in termen de cel mult 30 de zile de la data comunicarii acestei decizii, deoarece acestea au fost excluse din sfera de acordare a esalonarii la plata in forma simplificata;

- achitarea impozitelor si contributiilor sociale obligatorii cu retinere la sursa sau retinute prin stopaj la sursa, nestinse la data comunicarii deciziei de esalonare la plata si care nu fac obiectul esalonarii la plata, in termen de cel mult 60 de zile de la data comunicarii acestei decizii, deoarece acestea au fost excluse din sfera de acordare a esalonarii la plata in forma simplificata.

Dobanda datorata in cazul esalonarii la plata, in forma simplificata, a fost majorata de la 0,01% la 0,02% pentru fiecare zi de intarziere. A fost eliminata posibilitatea acordarii in paralel a esalonarii la plata (clasica) si a esalonarii la plata in forma simplificata. Debitorul poate depune o singura cerere de modificare a deciziei de esalonare la plata pe perioada de valabilitate a esalonarii la plata.

⇒ Se modifica Ordonantei Guvernului nr. 6/2019 privind instituirea unor facilitati fiscale

In cazul inlesnirilor la plata acordate in procedura de restructurare a obligatiilor bugetare, aflate in derulare sau care si-au pierdut valabilitatea la data intrarii in vigoare a OUG nr. 20/2023, modificarile aduse de aceasta se aplica si pentru debitorii care

gambling, not extinguished on the date of communication of the decision to defer payment and which are not subject to payment deferral, within no more than 30 days from the date of notification of this decision, because they have were excluded from the scope of granting the payment stagger in a simplified form;

- payment of taxes and mandatory social contributions withholding at source or withheld at source, not extinguished on the date of communication of the decision to defer payment and which are not subject to payment deferment, within no more than 60 days from the date of notification of this decision , because they were excluded from the scope of granting the simplified payment schedule.

The interest due in the case of deferred payment, in simplified form, was increased from 0.01% to 0.02% for each day of delay. The possibility of parallel granting of the (classic) staggered payment and the staggered payment in a simplified form has been eliminated.

The debtor can submit a single request to change the payment delay decision during the validity period of the payment delay.

⇒ The Government Ordinance no. 6/2019 regarding the establishment of fiscal facilities

In the case of the payment facilities granted in the procedure for the restructuring of budget obligations, which are ongoing or which have lost their validity on the date of entry into force of GEO no. 20/2023, the changes brought by it also apply to debtors

depun ulterior acestei date cereri de modificare/mentinere a inlesnirii la plata. Pentru debitorii care au depus/depun cereri de modificare/mentinere a inlesnirii la plata in cursul anului 2023, modificarile mentionate anterior se aplica astfel:

- in cazul in care debitorul a depus o singura cerere de modificare/mentinere a inlesnirii la plata, aprobata de organul fiscal, in perioada cuprinsa intre data de 1 ianuarie 2023 si data intrarii in vigoare a OUG nr. 20/2023, pentru perioada ramasa din anul 2023, acesta mai poate depune o singura cerere de modificare/mentinere a inlesnirii la plata;
- in cazul in care debitorul a depus doua cereri de modificare/mentinere a esalonarii la plata, aprobate de organul fiscal, in perioada cuprinsa intre data de 1 ianuarie 2023 si data intrarii in vigoare a OUG nr. 20/2023, pentru perioada ramasa din anul 2023, acesta nu mai poate beneficia de o noua modificare/mentinere a esalonarii la plata;
- in cazul in care debitorul depune prima cerere de modificare/mentinere dupa data intrarii in vigoare a OUG nr. 20/2023, pentru perioada ramasa din anul 2023, acesta poate beneficia doar de aceasta modificare/mentinere a inlesnirii la plata.

In cazul inlesnirilor la plata acordate in procedura de restructurare a obligatiilor bugetare aflate in derulare sau care si-au pierdut valabilitatea la data intrarii in vigoare

who submit after this date requests to change/maintain the payment facility.

For borrowers who submitted/submit requests to change/maintain the payment facility during the year 2023, the previously mentioned changes apply as follows:

- if the debtor has submitted a single application for modification/maintenance of the payment facility, approved by the fiscal body, in the period between January 1, 2023 and the date of entry into force of GEO no. 20/2023, for the remaining period of 2023, he can submit one more request to modify/maintain the payment facility;
- in the event that the debtor has submitted two requests to modify/maintain the staggered payment, approved by the fiscal body, in the period between January 1, 2023 and the date of entry into force of GEO no. 20/2023, for the remaining period of 2023, he can no longer benefit from a new modification/maintenance of the staggered payment;
- if the debtor submits the first request for modification/maintenance after the date of entry into force of GEO no. 20/2023, for the remaining period of 2023, he can only benefit from this modification/maintenance of the payment facility.

In the case of the payment facilities granted in the restructuring procedure of ongoing budget obligations or which have lost their validity on the date of entry into force of

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a OUG nr. 20/2023, cererile de modificare/mentinere a inlesnirilor la plata care sunt nesolutionate la aceasta data se solutioneaza potrivit legislatiei in vigoare la data depunerii cererii. In acest caz, dupa aprobarea cererii de modificare/mentinere debitorul nu mai poate depune o noua cerere de modificare/mentinere a inlesnirii la plata in cursul anului 2023

Daca aveti intrebari cu privire la aspectele mentionate in acest buletin informativ, va rugam sa ne contactati.

Contact:
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GEO no. 20/2023, requests for modification/maintenance of payment facilities that are unresolved at this date are resolved according to the legislation in force at the time of submission of the request. In this case, after the approval of the request for modification/maintenance, the debtor can no longer submit a new request for modification/maintenance of the payment facility during the year 2023

If you have any questions regarding the aspects mentioned in this newsletter, please contact us.

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