

TAX NEWS

15/2025

Ordinance no. 22/2025 for amending and supplementing Law no. 227/2015 on the Fiscal Code

In force from September 1st, 2025

- According to this ordinance, a small enterprise represents the taxable person who applies the special exemption regime provided for in art. 310 or 310² of the Fiscal Code, in accordance with art. 284 para. (1) and (2) of Directive 112;

Special exemption regime for small enterprises applicable in Romania by taxable persons with headquarters of economic activity in Romania – Article 310

- The national VAT exemption ceiling, provided for in Article 310 of the Fiscal Code, for small enterprises increased from 300,000 lei to 395,000 lei, starting with September 1, 2025;
- The taxable person who applies the special exemption regime and whose turnover exceeds the exemption ceiling of 395,000 lei must apply for VAT registration, according to art. 316, at the latest on the date of exceeding the ceiling.
- The normal tax regime applies from the date of exceeding the ceiling, starting with the transaction that leads to the ceiling being exceeded. The taxable person may also apply the normal tax regime for the operations prior to the transaction that led to the exceeding of the exemption ceiling, carried out on the date on which the exemption ceiling is exceeded.
- If the competent tax authorities find that the taxable person did not apply for or applied for registration late, they shall proceed as follows:
 - a) registers the taxable person for VAT purposes, ex officio, from the date of exceeding the ceiling, or, if he is already registered, changes the date of registration for VAT purposes, so that the date of registration is the date of exceeding the ceiling;
 - b) establish obligations regarding the payment tax, consisting of the difference between the tax that the taxable person should have collected and the tax that he would have been entitled

to deduct, during the period in which he would have had the obligation to apply the normal tax regime, if the tax collected is higher than the deductible tax, or, as the case may be;

c) determines the negative amount of the tax, respectively the difference between the tax that he would have been entitled to deduct and the tax that the taxable person should have collected, during the period in which he would have had the obligation to apply the normal tax regime, if the deductible tax is higher than the tax collected.

- If the taxable person finds that he has not applied for or applied for registration late, he shall proceed as follows:
 - a) requests registration for VAT purposes from the date of exceeding the ceiling, or, if it is already registered, requests that the date of registration for VAT purposes be changed so that the date of registration for VAT purposes is the date of exceeding the ceiling;
 - b) calculates the VAT payable, consisting of the difference between the VAT it should have collected and the VAT it would have been entitled to deduct, during the period in which it would have been obliged to apply the normal tax regime, if the tax collected is higher than the deductible tax, or as the case may be;
 - c) determines the negative amount of VAT, namely the difference between the VAT that he would have been entitled to deduct and the VAT that the taxable person should have collected, from the date on which that taxable person would have been obliged to apply the normal tax regime, if the deductible tax is higher than the tax collected

The determined amounts are entered in the first return filed after registration for VAT purposes or, as the case may be, after the change of the registration date or in a subsequent return.

Rules are introduced for taxable persons with the headquarters of economic activity in Romania that apply the special exemption regime for small enterprises in other Member States – Article 310¹

- A taxable person established in Romania according to art. 266 para. (2) letter a) may apply the special exemption regime for small enterprises in other Member States if it meets the following conditions:
 - a) the annual turnover at the level of the European Union of the respective taxable person does not exceed 100,000 euros in the year in which the exemption is requested and in the

previous calendar year;

(b) the value of supplies of goods and services made in the Member State in which the taxable person intends to apply the exemption does not exceed the exemption ceiling applicable to taxable persons applying the special exemption scheme for small enterprises established in that Member State.

- Annual turnover at European Union level means the total annual value of supplies of goods and services, excluding VAT, made by a taxable person on the territory of the European Union during a calendar year.
- A taxable person who intends to apply the special exemption regime in one or more Member States is required to submit a prior notification to the competent tax authorities, which includes at least the following information:
 - a) the tax identification code, name/name, field of activity, legal form and tax domicile of the taxable person;
 - b) the Member State or Member States in which they intend to benefit from the exemption and, where applicable, the VAT registration code assigned by them;
 - c) the total value of the supplies of goods and/or services made in Romania and in each of the other Member States during the previous calendar year, respectively during the two previous calendar years, if the notification refers to the application of the special exemption regime in a Member State applying the option provided for in Art. 288a para. (1) first paragraph of Directive 112;
 - d) the total value of supplies of goods and/or services made in Romania and in each of the other Member States in the current calendar year, before notification.
- The competent tax authority assigns to the taxable person an individual identification code for this purpose, which may be the VAT registration code already assigned to the taxable person in Romania or, as the case may be, the tax identification code, to which the suffix "EX" is added;
- If the Member State in which the taxable person intends to benefit from the exemption applies different ceilings for different economic sectors, the information on the value of supplies/services must be reported separately for each applicable ceiling;
- Any change in the information provided by prior notification shall be notified to the competent tax authority;
- The taxable person established in Romania who avails himself of the exemption for small enterprises in a Member State where he is not established, according to art. 266 para. (2) letter a) of the Fiscal Code, must prepare and submit to the competent tax authority, for each

calendar quarter, until the last calendar day of the month following the quarter, a report mentioning the individual identification code, as well as the following information:

- the total value of the supplies of goods and/or services made during the calendar quarter in Romania or "0" if no supplies of goods or services were made;
 - the total value of supplies of goods and/or services made during the calendar quarter in each of the Member States, other than Romania, or "0" if no supplies of goods or services were made.
 - Where one or more of the Member States for which the reporting obligation applies different ceilings, the total value of supplies of goods and/or services made during the calendar quarter in that Member State shall be reported separately for each ceiling.
- The taxable person has the obligation to inform the competent tax authority about the exceeding of the ceiling of the annual turnover at the level of the European Union within 15 working days from the date on which the ceiling was exceeded.

Whereas the special exemption regime for small enterprises applied in Romania by taxable persons with their economic activity in other Member States – art. 310²

- A taxable person whose place of business is in another Member State may apply the special exemption regime for small enterprises in Romania for supplies of goods and services made in Romania, if the following conditions are met:
- a) the annual turnover at the level of the European Union does not exceed 100,000 euros, in the year in which the exemption is requested and in the previous calendar year;
 - b) the value of supplies of goods and services made in Romania does not exceed the VAT exemption ceiling of RON 395,000, in the year in which the exemption is requested and in the previous calendar year.
- The taxable person applies the special exemption regime for small enterprises in Romania if he has notified the Member State of establishment that he intends to apply the exemption in Romania, as follows:
- a) from the date on which the Member State of establishment communicated to him the individual identification code referred to in Art. 284 para. (3) letter b) of Directive 112, in the case of prior notification;
 - b) from the date on which the Member State of establishment has confirmed to the taxable person that he can use in Romania, as a result of the updating of the prior notification, the individual identification code already assigned according to art. 284 para. (3) letter b) of Directive 112.
- The taxable person ceases to apply the special exemption regime in Romania if:

- a) exceeds the exemption ceiling provided for in art. 310² para. (1) letter a) of the Fiscal Code, respectively the annual turnover at the level of the European Union exceeds 100,000 euros,
- b) exceeds the exemption ceiling provided for in art. 310 para. (1) Fiscal Code, from the date of its exceeding;
- c) has informed the Member State of establishment in advance by updating a prior notification of the decision to cease to apply the exemption regime in Romania.

The termination becomes effective starting with the first day of the calendar quarter following the one in which the information was sent or, in the situation where the information was sent during the last month of a calendar quarter, from the first day of the second month of the following calendar quarter.

- The taxable person can no longer benefit in Romania from the special exemption regime for a period of one calendar year if in the previous calendar year he exceeded the aforementioned exemption ceiling.
- The taxable person provided for in art. 310² para. (1) Fiscal Code applying the exemption regime in Romania:
 - a) does not have the right to deduct the tax related to purchases, under the conditions provided for in art. 297 and 299 of the Fiscal Code;
 - b) He is not allowed to mention the tax on the invoice or on any other document.

Transitional provisions

- Taxable persons who exceeded in August 2025 the exemption ceiling for small enterprises of 300,000 lei, calculated according to the provisions of art. 310 para. (2) of Law no. 227/2015, they must not apply for VAT registration until this threshold is exceeded.
- If the ceiling of RON 395,000 was also exceeded in August 2025, the taxable person must apply for VAT registration no later than September 10, 2025 and apply the normal tax regime starting with this date. The VAT registration of that person will be considered valid starting with September 10, 2025.
- Taxable persons established before 2025, who registered for VAT purposes until September 1, 2025 inclusive, as a result of exceeding the exemption ceiling of RON 300,000, may request, starting with September 1, 2025, the removal from the register of persons registered for VAT purposes according to art. 316 of Law no. 227/2015, in order to apply the special exemption regime, if they have not exceeded the exemption ceiling of 300,000 lei from the previous year, respectively 2024, and if by the date of the request for removal from the register they have not exceeded the ceiling of 395,000 lei.

- Taxable persons established in 2025, who registered for VAT purposes until September 1, 2025 inclusive, as a result of exceeding the exemption ceiling of RON 300,000, may request, starting with September 1, 2025, the removal from the register of persons registered for VAT purposes according to art. 316 of Law no. 227/2015, in order to apply the special exemption regime, if by the date of the request for removal from the register they have not exceeded the ceiling of 395,000 lei.
- The request for removal from the register of taxable persons registered for VAT purposes can be submitted to the competent tax authorities between the 1st and 10th of each month following the tax period applied by the taxable person in accordance with the provisions of art. 322 of Law no. 227/2015
- The cancellation will be valid from the date of communication of the decision on the cancellation of the VAT registration. The competent tax authorities have the obligation to solve the requests for removal of taxable persons from the register of persons registered for VAT purposes at the latest by the end of the month in which the request was submitted.
- Until the communication of the decision to cancel the registration for VAT purposes, the taxable person has all the rights and obligations of the persons registered for VAT purposes according to art. 316 of Law no. 227/2015, as subsequently amended and supplemented.
- The taxable person who requested the removal from the register has the obligation to submit the last tax return, regardless of the fiscal period applied according to art. 322 of Law no. 227/2015, by the 25th of the month following the one in which the decision to cancel the registration for VAT purposes was communicated.
- In the last tax return submitted, taxable persons have the obligation to highlight the value resulting from making all tax adjustments, according to Title VII of Law no. 227/2015, as subsequently amended and supplemented.
- For taxable persons who have exceeded, prior to August 1, 2025, the exemption ceiling of RON 300,000, and have not requested registration for VAT purposes according to art. 316 of Law no. 227/2015, as a result of exceeding the ceiling, the provisions regarding registration in force on the date of exceeding the ceiling are applied.
- The taxable person who has the place of business in another Member State who has requested the application of the special exemption regime for small enterprises in Romania and to whom the Member State of establishment has communicated the individual identification code with the suffix "EX" valid for Romania, until September 1, 2025, applies the special exemption regime for operations carried out in Romania from the date on which the code was communicated to him, under the conditions applicable to taxable persons with the seat of economic activity in Romania.

Other relevant VAT changes

- The reselling taxable person may opt for the application of the special regime for second-hand goods, works of art, collectibles and antiques provided for in Article 312 of the Fiscal Code and for the delivery of works of art purchased by the reselling taxable person from a taxable person, other than a reselling taxable person.
- Place of transactions falling within the scope of VAT
 - Cultural, artistic, sports, scientific, educational, entertainment or similar services provided to non-taxable persons:
 - Physical services (not transmitted online): the place of supply is the place where the activities actually take place.
 - Virtual services (transmitted online or by other electronic means): the place of provision is the place where the beneficiary has his domicile, residence or permanent establishment.
 - Access services to cultural, artistic, sporting, scientific, educational, entertainment, fairs, exhibitions, provided to a taxable person: the place of supply is the place where the event actually takes place, including for ancillary services related to access, other than those to which the present is virtual
- Registration for VAT purposes according to the provisions of Article 316 of the Fiscal Code
 - The amendments introduced by Government Ordinance no. 22/28.08.2025 establish that the normal tax regime applies from the moment the ceiling is exceeded, starting with the transaction that generated the exceedance. The taxable person may, optionally, apply the normal regime also for transactions carried out on the same day, before the transaction that led to the ceiling being exceeded.
Previously, VAT registration had to be requested within 10 days from the end of the month in which the threshold of RON 300,000 was reached or exceeded, and this was valid from the first day of the month following the request.
 - Also, the criteria for calculating the turnover have been updated: supplies and supplies of services that are taxable outside Romania are excluded. The changes are also reflected in the rules on VAT registration.
- Correcting invoices

- Taxable persons who find that they have not requested or have requested registration for VAT purposes late, may issue correction invoices to the beneficiaries, after the date of registration for VAT purposes or, as the case may be, after the change of the registration date on the date of exceeding the ceiling, for the operations carried out during the period in which they would have had the obligation to apply the normal taxation regime. The beneficiaries have the right to deduct the tax entered in these invoices within the limits and under the conditions established in art. 297-302.
- Pre-filled RO e-VAT Return
 - The provisions regarding the obligation of taxable persons to submit the results of the verifications carried out on the differences between the RO e-VAT pre-filled return and the VAT return (D300), communicated by the tax authorities, are suspended until 31.12.2025. The sanctions corresponding to the non-fulfillment of the obligation are also suspended until 31.12.2025.

Note: The content of this newsletter does not represent specialized consultancy but is provided for general informational purposes. For further details, please contact us.

Florentina Șuşnea

Managing Partner

florentina.susnea@pkffinconta.ro

Narcisa Chirila

Tax Partner

narcisa.chirila@pkffinconta.ro