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M(o)re Stephens KSC News –Romania and Moldova

We are committed to expertise excellence so we provide monthly publication that keeps you up to date with the latest developments in tax. The alert is compiled by our tax specialists and you can find below a summary of the latest tax legislation changes that can impact you and your business, allowing you to be able to react in an appropriate and timely manner.

December 2017 – Romania tax news

On 10 November 2017, was published in the Official Gazette the Ordinance no.79/2017 which amended the Fiscal Code and thus all the employer social contributions were transferred to the employee.

On 20 November 2017 the Romanian authorities published in the Official Gazette Ordinance no. 82/2017 which provides the following:

- in companies in which there is no collective labor contract, it is mandatory to initiate collective negotiation for the implementation of the provisions of the Government Emergency Ordinance no. 79/2017;
- in companies where there is a collective labor agreement in force there is a **mandatory collective negotiation of the additional acts to the collective agreements and collective agreements in force.**

These negotiations should take place between 20 November and 20 December 2017.

According to the Ordinance, the employer has no any obligation to conclude a collective labor contract. The employer cannot be compelled in any way to conclude a collective agreement or an addendum to the collective agreement.

Please be informed that this obligation lies with all employers, irrespective of the number of employees. Even if one company has less than 21 employees, so it would not normally have the obligation to negotiate a collective labor contract, **the employer is obliged to initiate the negotiations, in order to apply the Government Emergency Ordinance no. 79/2017.**

The obligation to initiate the negotiation in view of implementation of the Government Emergency Ordinance no. 79/2017, it should be the responsibility of all employers, whether there is a collective labor contract or not, or whether the employees have designated their representatives. These negotiations which should determine in practice the increase of the gross salaries in order to maintain same net salaries starting with 2018. However, according to art. 221

par. (1) of the Labor Code, the interests of the employees can be promoted and defended by their representatives, in the units where there are more than 20 employees but Ordinance no. 82/2017 is also applied in small units.

As per Emergency Ordinance 23/2017 for approving a new VAT split payment system, several provisions were introduced on the new VAT system (refer to our September Tax alert).

Currently, a new draft Emergency Ordinance is discussed in view of promulgation, with the most important updates on the initial VAT split Ordinance being:

- **The new system will be mandatory starting with 1st of January 2018 for the operations after this date only for insolvent and taxpayers that have delays in VAT payments;**

The thresholds considered as VAT delays are:

- 15.000 RON for large taxpayers
- 10.000 RON for medium taxpayers
- 5.000 RON for other taxpayers

- **VAT split payment will use a separate treasury account, used only for the VAT registration;**

- The VAT account will be opened by default by the State treasury units for the taxable entities within the competent fiscal authority in their administration

Exempted from the application of VAT split are the following cases:

- a) in case the payment is not made directly by the beneficiary to the supplier / provider;
- b) when the payment is made in kind;
- c) where payment is made by offsetting;
- d) in the case of payments made with a bank card or the sums are made available through the escrow account;
- e) by providing financing by credit institutions and non-bank financial institutions through the taking over of receivables, respectively by factoring operations.

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