

LEGAL AND TAX ALERT, May 28th, 2014

CLARIFICATIONS PROVIDED BY THE METHODOLOGICAL NORMS FOR THE APPLICATION OF THE FISCAL CODE

The new provisions included in the Methodological Norms for the application of the Fiscal Code as of May 23rd, 2014¹ (the “**Norms**”) bring certain clarifications in respect to the application of the provisions regarding the tax exemption on reinvested profit, as well as of the provisions concerning the tax on (special) constructions.

Clarifications regarding the tax exemption on reinvested profit

1. The concept of production of technological equipment (in relation to which the exemption applies) refers to the manufacture of equipment by oneself;
2. The technological equipment shall be deemed as new if it has not been used prior to the purchase date.
3. The reinvested profit that can be subject to tax exemption is the accounting profit plus the expenses related to the profit tax, registered in the quarter/year of commissioning of the relevant technological equipment, without taking into account the own sources or the sources triggered by the financing of the technological equipment.
4. The profit tax exemption can be applied also by the persons using technological equipment under financial lease agreements and commissioned in the period in which the exemption applies.
5. The computation of the tax exemption on reinvested profit is illustrated in terms of the declaration and payment system applied by the taxpayers, respectively in terms of the number of years in which the investments in technological equipment are completed.

Clarifications regarding the tax on constructions

1. The concept of ‘value of the constructions existing in the taxpayers’ patrimony on December 31st of the prior year’ refers to the value evidenced in the accounting records in the accounts balance corresponding to constructions, without taking into account the constructions

¹ On May 23rd, 2014 Government Decision No. 421/2014 for the amendment and supplementation of the Methodological Norms for the application of Law No. 571/2003 regarding the Fiscal Code, approved by Government Decision No. 44/2004, entered into force.

registered in accounts not included in the balance sheet, according to the relevant accounting regulations.

2. The taxable base for the tax on constructions is determined by including and, respectively by excluding, certain explicitly specified values and, also, by taking into consideration the relevant provisions for determining the tax on buildings.
3. The deduction of the value of the reconstruction, modernization, consolidation, modification or extension works of the leased buildings or of the buildings in relation to which the taxpayer has a concession or administration right or a right of use, from the value of the constructions subject to tax on constructions, is performed and justified in the same conditions as those provided for the tax on buildings.

The norms also include technical clarifications for taxpayers that apply the accounting regulations in line with the International Financial Reporting Standards (IFRS) in terms of profit tax, as well as reconciliations with other regulations concerning tax on the incomes obtained in Romania by non-residents, value added tax and excise duties.

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