

NORMS FOR THE APPLICATION OF THE FLAT TAX

The methodological norms¹ for the application of Law No. 170/2016² which introduced the specific tax for certain activities, more precisely the flat tax owed starting with January 1st, 2017 for activities in the tourism and food service sectors, have entered into force on April 14th, 2017.

In essence, the new provisions aim at bringing some clarifications with respect to the categories of taxpayers which owe such flat tax (by way of derogation from the rules regarding the payment of corporate income tax), as well as with respect to the manner of computing the tax.

The clarifications refer, amongst others, to the following aspects:

- it is mentioned explicitly that the mere inclusion in the taxpayer's object of activity (as per the provisions of the articles of incorporation) of one of the NACE codes in relation to which the flat tax was introduced, does not trigger the application of the specific tax, the prerequisite for applying the tax being the actual performance of one of the activities corresponding to the respective NACE code;
- it is provided that in case the classification certificate/operating permit does not include the usable area based on which the specific tax is determined, the area established by the taxpayer on the basis of the documents regarding the premises, respectively the area declared by the taxpayer for the issuance of the operating permit, will be taken into consideration;
- particular rules are introduced for determining the specific tax in case of activities performed in a hotel complex, in case the aggregate capacity of the food service units exceeds the accommodation capacity;
- it is mentioned that for establishing the seasonality coefficient, the variable regarding the rank of the locality and the value of the standard tax, which depends on the category and/or type of tourist accommodation structure, the taxpayer must consider, with priority, the specific status granted by the competent authority to the respective locality in which it performs the activity;
- it is specified that, in case of touristic structures located on the Romanian coastline, classified, as per the law, as performing seasonal activity, the specific tax shall be owed for the period of time within the calendar year in which the taxpayer performs the activity, as such period is mentioned in the classification certificate/operating permit;

¹ The methodological norms were approved by joint Order of the minister of tourism and minister of public finances No. 264/464/2017, published in the Official Gazette of Romania, Part I, No. 266 of April 14th, 2017.

² Law No. 170/2016 regarding the specific tax for certain activities was published in the Official Gazette of Romania, Part I, No. 812 of October 14th, 2016 and entered into force on January 1st, 2017.

- the manner of allocating the shared expenses is provided in case of taxpayers which apply a mixed taxation regime, owing both specific tax, as well as corporate income tax (related to the taxable profit obtained from activities performed by the taxpayer, other than those expressly regulated as falling under the scope of the specific tax).

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