

Recent changes regarding salaries and taxation in the construction sector

By Teodora Stoian

As already reported, Emergency Ordinance no. 114/2018 (“**EO 114**”) caused quite a stir in the construction industry, as it came up with a drastic increase of the minimum salary and tax exemptions for affected employees. The changes were frequently look at as having a destabilizing effect; for many companies it was problematic to adapt to the new economic context. At the end of July, the government brought a new change with regard to salaries and taxes.

Changes concerning the minimum salary

Initially, companies working in the construction industry¹ were supposed to grant all their employees a minimum salary increased to 3.000 RON only for 2019.

In July 2019, only 6 months after the implementation of EO 114, the Government passed a new EO² amending EO 114, by which it extends the obligation of the companies to grant the 3.000,- RON minimum salary until 31 December 2028.

The prolonged payment obligation applies to all employees working in companies from the construction industry. The position they hold in the company plays no role in this sense since the adopted legal act does not provide any exception. Moreover, the new EO 43/2019 has extended the initial list of companies for which the salary increase is mandatory by adding the following three³ NACE codes:

- CAEN 2351 – manufacturing of cement,
- CAEN 2352 –manufacturing of lime and plaster;
- CAEN 2399 – manufacturing of other non-metallic mineral products n.c.a.

Conditions for tax exemption and benefits

According to EO 114, tax exemptions and benefits⁴ apply to employees working for a construction company (as mentioned above) only if the company meets certain criteria. Among other things, its turnover from construction activities must be of at least 80% of the total turnover calculated from the beginning of the year, including the month in which the exemption is applied. This condition had given birth to many controversies in the industries, due to an unclear calculation method regarding the turnover.

The new EO clarifies this condition, as it applies different calculation methods depending on the establishment date of the company.

¹ which comprises also companies that do not carry out typical construction activities, e.g. providers of architecture and engineering services

² EO No. 43/2019

³ Mandatory codes which determine the activity of a company

⁴ Income tax and health insurance exemption, reduction of the pension insurance and of the employment insurance contribution of the employer

For the companies registered with the Commercial Register starting with January 2019, the turnover is calculated cumulatively from the beginning of the year, including the month in which the exemption applies. For companies already active on 1 January of a year, the overall turnover reached in the previous fiscal year shall be taken into consideration. In case 80% of such turnover resulted from construction activities according to the legal definition, the tax benefits will apply for the entire year; otherwise, the method for newly established companies will be applied.

Applicability of the tax exemption and benefits

According to EO 114, the tax exemptions and benefits mentioned above apply only to salaries ranging between 3.000 – 30.000 RON. The new EO changes this regulation and applies these tax exemptions and benefits to all salaries from the construction industry, even if they exceed 30.000 RON.

However, they are applied only up to a limit of 30.000 RON, whereas the part of the salary exceeding 30.000 RON will be subjected to taxes.

This change is welcome since the former version of the law treated employees who earned more than 30.000 RON different from those with a lower income.

Conclusion

The extension of the period for which the minimum salary of 3.000 RON applies until 31 December 2028 could be perceived as a problem in the construction industry. This goes especially for small and medium sized Romanian companies, which, experience shows, find it hard to sustain such high salary costs. As already mentioned, most of the tax exemptions, respectively benefits regarding the tax and social insurance have impact only on employees and not on companies.

The other measures provided by EO No. 43/2019 regarding the calculation of the turnover and the extended application of tax exemptions and benefits are welcomed. They bring about the adjustment and correction of the measures imposed by EO 114.

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