

ANAF's almost unnoticed changes of rights and obligations

by Adina Zdru, Accounting & Taxation Services

Recently, ANAF announced the introduction of new Split VAT rules. At the same time, though, the tax authority made changesⁱ to the procedural tax law which have largely been overlooked in the intense debate over Split VAT. But unnoticed or not, these changes are important for businesses in Romania. Four key changes are noted below:

Tax residency

Until now a company planning to change its main place of business (eg from Arad to Bucharest) had to register this with the competent commercial register (here: Arad) and then apply at the fiscal authorities in the new town (here: Bucharest) to change its fiscal address (*domiciliul fiscal*), as the authorities did not communicate with each other. In practice, this was problematic because the switch to the Bucharest tax authority would only occur once the physical transfer of the tax file of the taxpayer was completed. Without a separate request to the tax authorities, an Arad taxpayer changing place of business to Bucharest (in this example) could only submit all his fiscal declarations and perform all tax payments to the tax authorities in Arad (as Bucharest couldn't process them) and would only receive notification at the old registered business address.

Now the changes of tax residency and the relevant tax authority are made within 15 days after the registration of the change at the commercial register.

Notification of administrative acts

The legal situation behind this has been changed comprehensively. Among other things, a new method of notifying administrative acts will now be used if, for instance, the taxpayer is not present at the residency or the receipt is refused. In such situations, the information of the taxpayer regarding the existence of the administrative act shall be deemed to have been delivered by pinning the notification to the door. The taxpayer now has 15 days to pick up the administrative act at the tax office. After that period, the administrative act shall be deemed to be notified.

In the case of a non-resident business, which does not have a fiscal domicile but has an empowered person in Romania, the new rule says that the notification must be made to this empowered person. (Still not settled is the communication of administrative acts to non-resident taxpayers which have neither a tax residence nor a representative in Romania.)

Tax registration

For non-resident taxpayers, the exact definition of some deadlines has been changed, as well as some special regulations regarding registration. For instance, banks which open accounts or a safe deposit box for non-resident natural or legal persons in Romania, have to request tax registration for them.

Non-resident taxpayers also now have the option to receive electronic pieces of information from the tax registration certificate, which is very useful if it is not possible to attend in person.

Last but not least the deadline for tax registration of secondary seats is extended from 15 days to 30 days.

Tax returns and audits

Some practical problems have been clarified and resolved.

For example: a tax return that is submitted to a wrong tax office shall still be deemed to have been delivered to the tax authority. The tax office has to forward the wrongly delivered tax report to the responsible office within five days.

There are additional regulations about the selection of tax audit periods and the audit process, especially for natural persons. Now a tax audit can also cover prevention and compliance activities related to tax regulations.

Other changes to note

For example, procedural issues for precautionary and enforcement measures, the deferral (*esalonare*) of tax liabilities, line of succession, intergovernmental cooperation, and fines have been introduced.

There is, for instance, now a fine of between 50 and 100 RON for delayed submission of the questionnaire for determining the fiscal residence of a natural person on arrival or on departure from Romania.

Explicit regulations have been introduced related to tax liability for independent persons; they have to bear liability with their total assets if the business assets are not sufficient.

Conclusion

Some of the latest changes to the tax regulations appear to be very useful in simplifying procedure. But some of the new regulations could be misused by the tax authorities. Due to the short time, affected taxpayers could not take position with regard to the draft regulations.

Contact and further information:



STALFORT Legal. Tax. Audit.
Bucharest – Bistrița – Sibiu

Office Bucharest:

T.: +40 – 21 – 301 03 53

F: +40 – 21 – 315 78 36

M: bukarest@stalfort.ro
www.stalfort.ro

ⁱ Ordinance 30/2017 amending the Fiscal Procedural Code