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### Legislative measures adopted in the context of COVID-19 pandemic

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## I. Emergency Ordinance no. 33/2019 on certain fiscal measures and the amendment of certain normative acts

On 30 March 2020, the Emergency Ordinance no. 33 was published in the Official Gazette of Romania, Part I, introducing the followings:

### Postponement of the VAT paid in customs for the imports of goods designed to prevent, limit, treat and combat COVID-19

Specifically, for the import of

- testing kits for COVID-19/ instruments and machines used for diagnosis tests,
- protective equipment
- thermometers
- disinfectants/ sterilizing products,
- medical equipment
- medical devices and
- medicines

that may be used to prevent, limit, treat and combat COVID-19 (exhaustive list may be viewed [here](#)), the VAT will no longer be paid to the customs authorities upon importation. Instead, for such imports, the taxable persons will have to account for VAT via the reverse-charge mechanism.

This measure is aimed to optimize the cash flow at the level of companies who perform imports of goods used in the fight with COVID-19, as there will be no cash out when the imports are performed.

Even the companies that do not have full deduction right (for example, hospitals and medical clinics) may benefit from this measure taking into account that in this scenario the VAT payment will be postponed until the date of the submission of the VAT return – i.e. 25th of the next month/quarter.

The VAT postponement is applicable starting with 30 March 2020 and will remain in force until the end of the emergency state plus 30 days – i.e. 15th May, assuming that the emergency state will not be prolonged.

### Allowances between 5% and 10% granted for corporate income tax and microenterprise tax due for the first quarter of 2020

When computing the corporate income tax or the microenterprise tax due for the first quarter of 2020, the taxpayers should deduct the allowances granted, if the tax payment is performed within the legal deadline of 25 April 2020.

The allowances will be granted in quantum of:

- **5%** for large taxpayers;
- **10%** for medium and small taxpayers (including those falling under the microenterprise tax system)

The corporate income tax/ microenterprise taxpayers will subtract the allowances of 5% respectively 10%, as the case may be, from the tax due.

The tax facility applies also for taxpayers having a different tax year (if the due date is between 25 April – 25 May), as well as by the taxpayers falling under Law no. 170/ 2016 regarding the specific tax, for the activities subject to the corporate income tax regime.

The corporate income taxpayers will separately reflect the allowances granted in the annual corporate income tax return.

## II. Emergency Ordinance no. 32/2020 on the amendment and completion of Emergency Ordinance no. 30/2020 amending certain normative acts, as well as for establishing several measures regarding social protection given the epidemiologic situation derived from SARS-CoV-2 spreading

Government Emergency Ordinance no.32/2020 (hereinafter referred to as "GEO 32/2020") amending and supplementing Government Emergency Ordinance no. 30/2020 (hereinafter referred to "GEO 30/2020") was published in the Official Gazette no. 260, Part I, from 30.03.2020.

### Main amendments brought to GEO 30/2020

#### A. Technical unemployment

##### ➤ Who can benefit from the technical unemployment indemnity and what are the conditions for granting it?

Employees of undertakings who temporarily reduce or discontinue their activity, in whole or in part, as a result of the effects of the SARS-CoV-2 coronavirus epidemic can, during the state of emergency, benefit from the indemnity provided by GEO 30/2020, according to an affidavit submitted by the employer.

As such, according to GEO 32/2020:

- a) granting the indemnity is no longer conditioned by the lack of employers' financial ability to pay all their employees' salaries;
- b) the limit regarding the possibility to benefit from the payment of the indemnity only for 75% of the employees whose individual employment agreements are active at the date of entry into force of GEO 30/2020, was removed;
- c) the condition regarding the payment incapacity of the employer was also eliminated - thus, the latter no longer has to register and declare a decrease of minimum 25% of their cashed revenues in the month prior to the one when they submit the affidavit, from the average level registered during January – February 2020.

##### ➤ The employer's possibility to supplement the indemnity granted to employees

The amount of the technical unemployment indemnity the employees can benefit from is of 75% of the employee's base salary corresponding to the job position occupied, which is born from the unemployment insurance budget up to the limit of 75% of the average gross salary stipulated by Law no. 6/2020 regarding the state social insurance budget for 2020.

Moreover, the indemnity can be supplemented by the employer with the amounts representing the difference of up to at least 75% of the base salary corresponding to the job position occupied by the employee.

The period in which the work insurance contribution is not due as a result of the suspension of the employment contracts from the employer's initiative during the state of emergency, constitutes period of contribution, without actually paying the contribution towards the health insurance fund.

In order to establish and compute the health insurance benefits, the minimum gross basic salary per country shall be used (i.e. RON 2230, RON 2350 for the individuals working on positions which require a university degree, respectively RON 3000 for the employees working in the construction field).

##### ➤ New provisions regarding employees having several individual employment agreements concluded

GEO 32/2020 establishes the cases in which employees who have concluded several individual employment agreements (hereinafter referred to as "IEAs") can benefit from the technical unemployment indemnity, as follows:

- a) if an employee has more than one IEA concluded, of which at least one full-time agreement is in force during the state of emergency, he / she does not receive the indemnity;

- b) if an employee has more than one IEA concluded, and all are suspended as a result of the state of emergency, he / she benefits from the indemnity related to IEA providing the most advantageous salary rights.

➤ **Amendments regarding the documents to be submitted by employers in order to obtain the necessary amounts for the payment of the indemnity - filing an affidavit**

In order to be granted the necessary amounts for the payment of the indemnity, the employers shall submit, by electronic mail, to the local or Bucharest unemployment agency, within the radius of which the employers have their registered office, an application form signed and dated by the legal representative accompanied by an affidavit and the list of people who will benefit from the indemnity, signed by the employer's legal representative and drafted according to the model that will be approved by order of the Minister of Labor and Social Protection, subsequently published in the Official Gazette of Romania, Part I.

Moreover, according to GEO 32/2020:

- a) the payment from the unemployment insurance budget of the indemnities is made within 15 days from the submission of the documents (the old provision provided for a period of 30 days), to the commercial bank accounts opened by the employers;
- b) the payment of the technical unemployment indemnity is made to the employee within a maximum of 3 working days from the receipt by the employer of the necessary amounts from the unemployment insurance budget;
- c) the employers assume responsibility for the accuracy and veracity of the data entered in the documents submitted in order to be granted the amounts necessary for the payment of the indemnity.

➤ **Amendments regarding other categories of beneficiaries of the unemployment allowance**

- The individuals who concluded individual labor agreements were included may also benefit from an unemployment allowance, together with the category of other professionals. For these categories of beneficiaries, the monthly allowance will be 75% of the gross average salary and is granted from the state budget, based on a self-statement;
- As for the athletes, the allowance of 75% of the salary rights granted for their sports activity, but not more than 75% of the gross average salary as per the law can also be supplemented. Thus, they can receive other compensatory allowances from the sports structures where they are affiliated in order to compensate the decrease of their financial situation;
- Certain regulations are also introduced for the individuals deriving copyright income. Thus, if they suspend their activity because of COVID-19 pandemics, they may benefit from a monthly allowance of 75% of the gross average salary based on certain supporting documents (copy of their ID cards and the self-statement) to be submitted at the territorial payment and social inspection agencies;
- For the allowances granted to the abovementioned beneficiaries, income tax and social security contributions are due. The computation, declaration and payment methods of the income tax and social security contributions due, will be established through a common order of the Labor and Social Protection Ministry and of the Public Finances Ministry;
- The requests and related supporting documents must be submitted by these categories of beneficiaries to the territorial agencies by the 10th of the current month for payment of the previous month's allowance. The payment of the allowances is made within maximum 10 days from the submission of the documents for the emergency period related to the previous month.

**B. Child caring leave and child raising allowance**

- In order to receive the insertion incentive or the allowance for taking care of a child with disabilities, the respective individuals must submit to the territorial payments and social inspection agencies, depending on situation applicable in their case (i.e they already started to receive these rights before the state emergency situation or they will benefit from these

rights from now on), the medical certificate or the certificate issued by their employer, as per the case;

- The individuals who have their employment contract suspended or terminated from the employer's initiative because of temporary suspension or reduction of the activity as consequence of the emergency state, may submit as a supporting document for receiving the insertion incentive or the allowance for taking care of a child with disabilities, the certificate issued by their employer or a self-statement through which they declare that they are in one of these two situations;
- The individuals applying for the insertion incentive or the allowance for taking care of a child with disabilities may choose between being beneficiary of the insertion incentive or returning to a child-raising leave and being beneficiary of the related allowance;
- The insertion incentive is granted starting with the date of submission of the request, if individual derived income subject to income tax, until the child is 3 years old, respectively 4 years old, in case of the child with disabilities.

**C. Law no. 19/2020 regarding the paid leave granted to the parents for supervising their children in the situation of temporary closure of the learning insitutions**

- Income tax and social security contributions are due for each day off granted to the parent as per the abovementioned law. The income tax and the related social security contributions are borne by the employer;
- The activity is suspended also in the pre-school institutions during the emergency state. The parents whose children are enrolled in such educational insitutions may also benefit from the rights provided by Law no. 19/2020.

**D. Law no. 76/2002 regarding the unemployment insurance system**

- The individuals who should present themselves on a monthly basis to the territorial employment agencies for employment support, no longer have this obligation during emergency state;
- During the emergency state period, the requests and the related supporting documents for the social insurance and unemployment rights will be made via e-mail.

**E. Suspension of the enforcement procedures and the cases in which the enforcement procedures are not started**

- During the emergency state period, the enforcement procedures are suspended or shall not start in the following cases:
  - for the debt recovery for all social assistance rights;
  - for the garnishment of the budgetary, fiscal and commercial receivables that are applied on monthly rights paid through the territorial pensions houses, without other formalities from the part of the beneficiaries.
- The abovementioned measures shall cease within 60 days from the date when the emergency state is ended.

**Entry into force**

Government Emergency Ordinance no. 32/2020 amending and supplementing Government Emergency Ordinance no. 30/2020 is applicable starting with the date of its publication in the Official Gazette, respectively 30.03.2020.

### III. Emergency Ordinance no. 35/2020 on the method of issuing and extending the validity of holiday vouchers, in the context of the epidemiological situation determined by the spread of COVID-19

The holiday vouchers for 2020 will be issued only on electronic support.

The period of validity of the holiday vouchers issued between March 2019 - December 2019, regardless of the support on which they were issued (paper, card or electronic), is extended until May 31, 2021.

### IV. Order no. 499/2020 for approving the temporary suspension of the distribution outside the Romanian territory of biocidal products used to ensure the prevention of the diseases associated with the infection with SARS-CoV-2

According to the Order no. 499/2020 issued by the Ministry of Health, the distribution of the following products outside the territory of Romania (i.e. export and intra-Community supplies) is temporarily suspended during the pandemic:

- Raw materials used in the manufacture of the biocidal products TP1 and TP2;
- Biocidal products TP1 and TP2, defined according to Regulation no. 528/2012 on the distribution on the market and use of biocidal products.

It is important to mention that the order does not specify whether the export and intra-Community supplies of biocidal products that transit the territory of Romania and which are destined to other markets are allowed.

For more details, please do not hesitate to contact us.



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