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Procedure for the annulment of ancillary payment liabilities

In the context of the tax measures adopted by the authorities in May by GEO 69/2020, aiming to support taxpayers in overcoming the problems caused by COVID-19, Order no. 2.100 of the Minister of Public Finance for the approval of the Procedure for the annulment of ancillary payment liabilities was published on July 20, 2020.

Thus, the Procedure for the annulment of ancillary payment liabilities, implements the mechanism previously established by GEO 69/2020, regulating among others, the following aspects:

- The debtors who can benefit from these tax facilities;
- The categories of outstanding ancillary liabilities that may be subject to the annulment;
- The steps that must be followed in order to benefit from the tax facilities;
- Particular situations of the debtors.

The Procedure for the annulment of ancillary payment liabilities

General conditions

According to GEO 69/2020, in order to obtain the annulment of the ancillary liabilities related to the budgetary liabilities due by March 31, 2020 inclusive, the taxpayers should cumulatively meet the following conditions:

- all the main budgetary liabilities due until March 31, 2020 inclusive, must be extinguished by any means provided by law until the date of submission of the claim for annulment of the ancillary liabilities;
- all main budgetary and ancillary liabilities administered by the central tax authority with payment deadlines between April 1st 2020 and the date of submission of the annulment claim must be extinguished;
- by the date of submitting the annulment claim, the debtor must have submitted all the tax declarations, according to the tax vector;
- the debtor must submit the annulment claim by December 15, 2020.

The debtors that can benefit from these tax facilities

The facilities included in the Procedure can be applied by all categories of debtors, including:

- debtors declared insolvent;
- the persons to whom the joint liability has been established according to the Tax Procedure Code;
- debtors in insolvency proceedings or in dissolution;
- debtors who, on March 31, 2020, record only outstanding ancillary liabilities related to the main budgetary liabilities extinguished up to that date;
- debtors who have been notified of tax assessment decisions relating to principal budgetary liabilities due up to March 31, 2020, following a tax inspection / check of the personal tax situation in progress on May 14, 2020, regardless of the date of communication of the tax assessment decision.

Categories of ancillary payment liabilities

The object of the tax facilities regulated by GEO no. 69/2020 is that of granting:

- ✓ The deferral of the payment of ancillary liabilities outstanding at the date of issuance of the tax attestation certificate, until the issuance date of the decision on the annulment claim or until December 15, 2020;
- ✓ Annulment of the ancillary payment liabilities.

The ancillary liabilities, which may be subject to the annulment procedure, are the following:

- interest / late payment penalties;
- late payment penalties/ penalties for not declaring/penalties;
- any other outstanding ancillary payment liabilities.

The ancillary payment liabilities must be related to:

- Outstanding main budgetary liabilities as of March 31, 2020;
- Differences in main budgetary liabilities which were additionally declared by the debtor in a rectifying declaration correcting the main budgetary liabilities due up to March 31, 2020;

- Main budgetary liabilities due up to March 31, 2020 and extinguished by that date;
- The main budgetary liabilities administered by the central tax body due up to March 31, 2020 and individualised in tax assessment decisions issued as a result of a tax inspection or check of the personal tax situation, in progress on May 14, 2020.

The procedure is also applicable for:

- VAT returns still being under review on December 15, 2020 inclusive, and for which after this date the tax authorities rejects in full or partially the refund, provided the following conditions are met:
 - a) Submission of an application for annulment of the ancillary liabilities;
 - b) Payment, within 30 days from the date of receiving the decision rejecting the refund, of the budgetary liabilities on which the annulment depends and which were not extinguished by offset with the amounts individualised in the application for refund.
- Payment liabilities representing the VAT due prior to March 31, 2020 inclusive and resulting from the reporting in the settlements rows of the VAT return, which corrects the VAT due prior to March 31, 2020 inclusive.

The steps to follow in order to benefit from the annulment of the ancillary liabilities

- ✓ Prior to submitting the annulment request: submission of a notification through which debtors may express their intention to benefit from the annulment of ancillary payment obligations.

The notification has the purpose of obtaining the deferral of payment of the ancillary liabilities until the date of settlement of the annulment claim or until December 15, 2020 inclusive. Its submission is not mandatory.

Within 5 working days from the date of its registration, the tax authority issues and communicates to the debtor the decision regarding the ancillary liabilities and the tax attestation certificate.

- ✓ The claim for annulment of the ancillary liabilities shall be submitted after the conditions for granting the annulment have been met, but not later than **December 15, 2020**. It will also be submitted by the debtors who previously notified the tax authorities.

Within 5 working days after the date of registration of the annulment claim, the central tax body shall solve the claim and issue a decision.

The procedure also provides that the debtor may withdraw both the notification and annulment claim at any time, by submitting a request to that effect.

All the necessary forms provided by the procedure, including the notification and the annulment claim, are included in the appendices of the procedure.

Particular situations

The procedure provides distinctively the rules applicable for the annulment of the ancillary liabilities for two categories of debtors: **taxpayers for whom joint liability has been incurred** and **debtors who have an ongoing instalments payment**.

Separately, in the case of debtors that from a tax point of view have two or more tax identification codes, the tax authorities will check the fulfillment of the conditions regarding the payment of the outstanding main budgetary liabilities for all existing budgetary liabilities allocated to all tax identification codes of the debtor.

For more information, do not hesitate to contact us.



Raluca Bâldea
Partener
Deloitte Tax
rbaldea@deloittece.com



Alexandra Smedoiu
Partener
Deloitte Tax
asmedoiu@deloittece.com



Ana Petrescu
Senior Manager
Deloitte Tax
apetrescumujdei@deloittece.com



Iulia Bică
Manager
Deloitte Tax
ibica@deloittece.com

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