

TAX FLASH
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Government Emergency Ordinance 39/2010 regarding the modification and amendment of the Government Ordinance 92/2003 regarding the Tax Procedure Code.	Ordonanta de Urgenta nr. 39/2010 pentru modificarea si completarea Ordonantei Guvernului nr. 92/2003 privind Codul de procedura fiscala.
<p>The Government has issued Emergency Ordinance no. 39/2010 regarding the modification and amendment of the Tax Procedure Code.</p>	<p>Guvernul a emis Ordonanta de Urgenta nr. 39/2010 cu privire la modificarea si completarea Codul de procedura fiscala.</p>
Indirect methods for the establishment of the tax obligations due by the taxpayers:	Metode indirecte pentru determinarea obligatiilor fiscal ale contribuabililor:
<p>The new normative act offers the possibility to the tax inspectors to use the indirect methods for the reestablishment of the value of revenues and expenses, when it can be proved that the bookkeeping entries or the tax returns do not reflect the real tax situations of the taxpayer or some of them are provided at the request.</p>	<p>Prin noul act normativ inspectorii fiscali au posibilitatea de a utiliza metodele indirecte de reconstituire a veniturilor sau cheltuielilor, atunci cand constata ca evidentele contabile si fiscale sau declaratiile contribuabilului nu reflecta situatia reala fiscala a contribuabilului sau acestea nu sunt puse la dispozitie.</p>
<p>When discovered the fraud regarding the bookkeeping entries, the tax inspectors can use an indirect approach in order to establish the taxable base. Thus, based on a presumed correct element of the taxable base the real value of the revenues and expenses of the taxpayer will be retraced.</p>	<p>La constatarea fraudelor privind evidente contabile organele fiscale pot recurge la o abordare indirecta pentru determinarea bazei de impunere. Astfel se va considera un element al bazei de impozitare prezumat a fi corect si in baza acestuia se vor reconstitui veniturile si cheltuielile.</p>
The introduction of interest and late payment penalties:	Introducerea dobanzilor si penalitatilor de intarziere:
<p>The delay increases shall be replaced with the interest and delay penalties.</p>	<p>Majorarilor de intarziere sunt inlocuite cu dobanzile si penalitatile de intarziere.</p>
<p>The Government decided to settle the delay interest applicable in the case of the tax payers with delayed tax obligations. The level of the interest has been established according to the medium level of the bank</p>	<p>Guvernul a decis stabilirea dobanzilor de intarziere, aplicabile in cazul neachitarii la termenul de scadenta a obligatiilor bugetare. Nivelul acestora a fost stabilit prin raportare la nivelul dobanzii medii bancare, in</p>

<p>interest, in total value of 0.05% for each day of delay, with the possibility to be modified considering the annual budget. The instituted interest shall have as purpose the compensation of the state prejudice induced through the delayment of the tax obligation.</p> <p>Therewith, the delay penalties were introduced as payment obligations when the actual payment of the tax is not effected in due course, as a sanction for breaching the legal provisions regarding the payment at the maturity date of the due tax obligations. The penalties level shall be established as follows:</p> <ul style="list-style-type: none"> - For the first 30 days from the maturity date, the penalties shall not be due or computed for the tax obligations which were paid in the mentioned term. - In the case when the payment is performed during the next 60 days, the level of the delay penalties shall be 5% from the paid tax obligations. - After the expiration of the 60 days term, the level of the delay penalties shall be established at 15% from the unpaid tax obligations. <p>The delay penalties do not dispose the payment obligation of the delay interest applicable.</p> <p>In the case of the taxes administered by the local tax administration, the increase penalties shall be settled at 2% per month or fraction of the delayed month.</p> <p>Eliminating the possibility of the assignment of the claims by NAFA:</p> <p>In order to avoid the risks which may appear in the management of the claims the possibility of their assignment by NAFA is repealed.</p> <p>The increase of the limit for the tax claims litigation at 3 million RON:</p> <p>The present ordinance establishes the new limit of the tax claims challenged from 1 to 3 million RON which defines the competency of solving the challenged requests between the specialized directions established at the central level and the specialized structures constituted at the level of the NAFA's territorial specialized directions.</p>	<p>cuantum de 0.05% pentru fiecare zi de intarziere, cu prezumtia de a putea fi modificata prin legile bugetare anuale. Dobanda instituita va avea ca scop repararea prejudiciului adus statului prin intarzierea executarii obligatiei de plata.</p> <p>Totodata a fost introdusa si obligatia de plata a penalitatilor de intarziere in situatiile in care plata obligatiilor fiscale datorate nu se efectueaza la termenul prevazut de lege, ca sanctiune pentru incalcarea dispozitiilor legale cu privire la plata la scadenta a obligatiilor fiscale. Nivelul acestora este stabilit astfel:</p> <ul style="list-style-type: none"> - Pentru primele 30 de zile de la scadenta, nu se datoreaza si nici nu se calculeaza penalitati de intarziere pentru obligatiile stinse in termenul mentionat. - In cazul in care stingerea se realizeaza in urmatoarele 60 de zile, nivelul penalitatii de intarziere este de 5% din obligatiile fiscale principale stinse. - Dupa implinirea termenului de 60 de zile nivelul penalitatii de intarziere este de 15% din obligatiile fiscale principale ramase nestinse. <p>Penalitatea de intarziere nu inlatura obligatia de plata a dobanzilor.</p> <p>In cazul creantelor administrate de organele fiscale ale autoritatilor administratiei locale, majorarile de intarziere se vor calcula in cuantum de 2% pe luna sau fractiune de luna de intarziere.</p> <p>Eliminarea posibilitatii de cesionare a creantelor de catre ANAF:</p> <p>Pentru evitarea riscurilor care pot apare in managementul arieratelor se elimina posibilitatea cesionarii creantelor de catre ANAF.</p> <p>Majorarea plafonului de contestare a creantele fiscale la cuantumul de 3 milioane RON:</p> <p>Prin aceeasi ordonanta s-a decis majorarea de la 1 milion lei la 3 milioane lei a plafonului creantelor fiscale contestate care delimiteaza competenta de solutionare a contestatiilor dintre directia de specialitate constituita la nivel central si structurile specializate constituite la nivelul directiilor teritoriale ale ANAF.</p>
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