



## Tax Flash Decision no. 150/2011

Decision no. 150/2011, published on 1<sup>st</sup> of March, 2011, regarding the amendment and completion of Law no. 571/2003 from Fiscal Code

Emergency Ordinance no. 150/2011 has been issued by the Government amending and completing Law no. 571/2003 regarding the Tax Code. The new Emergency Ordinance mainly address the following amendments:

### Corporate Tax

In case of corporate tax, the amendments regarding annual tax as per art 34(16) from the Tax Code are as follows:

- Taxpayers who reported minimum tax in at least one quarter in 2010, have to submit 2 statements regarding 2010 corporate tax, for the 2 periods according to art 34(16) from the Tax Code
- The due term regarding 01.01.2010-30.09.2010 period is 25<sup>th</sup> of February. In case the accounting period is completed until this date the statement for both periods (i.e. 01.01.2010 – 30.09.2010 and 30.09.2010 – 31.12.2010) will be submitted.
- The due term for the period 30.09.2010 – 31.12.2010, is through 25<sup>th</sup> of April for companies that have not opted to close the fiscal year through 25<sup>th</sup> of February
- Deductible expenses will be computed accordingly separately, for each period.
- The tax loss computed for 01.01-30.09 and 01.10-31.12, will be recovered from the future taxable incomes up to 7 years, year 2010 being considered a single fiscal year;

### Micro enterprises income tax

- Consultancy and management services are excluded from the activity of micro enterprises;
- The provisions regarding the number of employees and number of persons employed based on labor contracts, according to the Labor Code, will be met within 60 days from the registration certificate issuance. Failure to do so triggers the entity to become subject to corporate tax.
- The share capital of a micro enterprise is not to exceed 100 000 euro and is not to be owned by a legal entity with over 240 employees.

### Income tax obtained from Romania by non residents and income tax for Representative Offices of non-resident legal entities

- Are not considered royalties, amounts paid by television or radio companies to satellite operators and amounts paid by telecommunication operators to other operators, based on roaming agreements;

No. 4 / 2011

March 3rd 2011

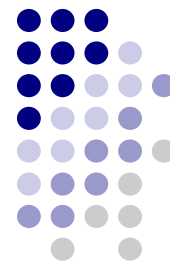
### Our areas of practice:

- Tax Advisory Services
- Accountancy & Payroll
- Audit & Assurance
- Legal Services
- Financial Advisory
- International Executive Services & Immigration
- HR Services

### Contact us :

11 Dr. Thoma Ionescu Street  
5th District, 050572 Bucharest  
Romania

Phone: +40 (31) 405 10 17  
Fax: +40 (31) 405 10 18  
E-mail: [office@mirus-group.eu](mailto:office@mirus-group.eu)  
Web: [www.mirus-group.eu](http://www.mirus-group.eu)



## Tax Flash Decision no. 150/2011

- Fulfilling the obligation to make available to creditors funds, in the manner specified by the contract, will fall into the category of income
- In case the beneficiary of the income is resident in a state signatory of a Double Tax Treaty with Romania, the more favorable tax rate will apply.

### Income Tax

The most important changes and additions to the income tax include specifications for:

- The method for settling annual net income based on single-entry accounting of rental and leasing incomes earned from at least five lease contracts, at the end of the fiscal year;
- The method for settling the annual net income, based on annual income rules in situations where activity takes place in several different places or the taxpayer carries out several activities;
- Clarifications regarding the obligation of the competent tax authority to establish the annual taxable income/net annual taxable earnings;
- Clarification regarding the obligation of the competent fiscal authority to issue the tax settlement statement;
- Stipulations regarding the obligation of tax authorities to apply the methods for the avoidance of double taxation foreseen by the Double Tax Treaties.

### Taxes on gambling

- Gambling operators have the obligation to declare due taxes as per the legislation applicable to the competent tax authority.
- Gambling operators have the obligation to register the date and hour on the issued ticket and to archive for a period of 5 years the control mark of all tickets sold.

### VAT

- Introducing new provisions regarding the transfer of assets. In case of a transfer of assets as per art. 128.7, the beneficiary has to provide a self statement regarding the continuity of the activity taken over.
- Introduction of new examples for the clarification of the concept regarding granting goods for free.
- Introduction regarding the exclusion from the computation of the floor for delivery of goods as per art. 132.1(e),(f) of the gas supplies delivered through a gas system located on the Community territory.

No. 4 / 2011

March 3rd 2011

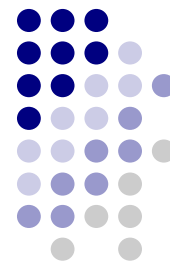
### Our areas of practice:

- Tax Advisory Services
- Accountancy & Payroll
- Audit & Assurance
- Legal Services
- Financial Advisory
- International Executive Services & Immigration
- HR Services

### Contact us :

11 Dr. Thoma Ionescu Street  
5th District, 050572 Bucharest  
Romania

Phone: +40 (31) 405 10 17  
Fax: +40 (31) 405 10 18  
E-mail: [office@mirus-group.eu](mailto:office@mirus-group.eu)  
Web: [www.mirus-group.eu](http://www.mirus-group.eu)



## Tax Flash Decision no. 150/2011

- Introducing clarifications regarding access to cultural, artistic, educational and other events, with applicability on the Methodological Norm related to art 133.7.b from Fiscal Code
- Introducing clarification related to the chargeability and adjustment of tax in case of intra-community acquisitions taking place before 1.07.2010.
- Introducing clarifications regarding the taxable base in case of goods subject to leasing contracts. Thus, the taxable base will be consisting of the capital remaining to be invoiced.
- Introducing new provisions regarding the exemption of tax for the goods foreseen at art. 142.1.e and 142.1.f by the custom offices
- Introducing clarification regarding the deductibility of tax related to acquisitions performed by taxpayers not established on the Romanian territory, if the tax has not been requested back.
- Introducing new provisions related to deduction of VAT on goods under forced execution acquired by taxpayers as well as deduction of VAT on goods acquired from legal entities having the status of inactive taxpayers.
- Introducing new provisions regarding the adjustment of VAT related the operations taking place after VAT registration.

### Mandatory Social Contributions

The rules for implementing the provisions of the Fiscal Code regarding the mandatory social contributions mainly follow:

- The regulations detailing the elements which constitute the contribution calculation base;
- Clarifications on general and specific exceptions of excluding from the calculation base the mandatory social contributions the amounts representing social allowances, gifts up to RON 150, granted as per the Fiscal Code provisions, the value of the protection equipments and supplies, transportation expenses from home to work in the limit of a monthly subscription, per diem if the amount of 2.5 the level for public institutions is not exceeded, expenses with professional training, meal tickets, gift tickets, holiday and nursery tickets, the benefits in kind obtained in relation with a dependent activity.

Specifics on the application of caps for incomes obtained from more than one employers.

No. 4 / 2011

March 3rd 2011

### Our areas of practice:

- Tax Advisory Services
- Accountancy & Payroll
- Audit & Assurance
- Legal Services
- Financial Advisory
- International Executive Services & Immigration
- HR Services

### Contact us :

11 Dr. Thoma Ionescu Street  
5th District, 050572 Bucharest  
Romania

Phone: +40 (31) 405 10 17  
Fax: +40 (31) 405 10 18  
E-mail: [office@mirus-group.eu](mailto:office@mirus-group.eu)  
Web: [www.mirus-group.eu](http://www.mirus-group.eu)