Translation from Romanian

**GEO no. 50/2015 amending and supplementing Law no. 227/2015 regarding the Tax Code and Law no. 207/2015 regarding the Code of Tax Procedure**

ISSUED BY: THE GOVERNMENT OF ROMANIA

PUBLISHED IN THE OFFICIAL GAZETTE NO. 817 of 3 November 2015

ART. II

Law no. 207/2015 regarding the Code of Tax Procedure, published in the Official Gazette of Romania, Part I, no. 547 of 23 July 2015, is amended and supplemented as follows:

**1. At article 49 paragraph (1), letter b) is amended and it shall include:**

“b) it does not include one of its elements regarding the last name, the first name and the quality of the authorized representative of the tax body, the last and first names or the name of the taxpayer/payer, of the object of the administrative act or of the signature of the tax body’s authorized representative, with the exception provided at art. 46 para. (6), as well as the issuing tax body;”.

**2. At article 71, after paragraph (2) three new paragraphs are inserted, paragraphs (3) - (5), which include the following:**

“(3) A.N.A.F., as authorized representative of the Ministry of Public Finance or, as applicable, of the minister of public finance, is the competent Romanian authority for the exchange of information for taxation purposes, an exchange with the states with which Romania is committed under an international law instrument, other than the Member States of the European Union, for the information provided by those international law instruments.

(4) The information is transmitted on the request of the requesting authority in the states with which Romania is committed by an international law instrument, other than the Member States of the European Union. The terms under art. 290, for the transmission of the information, shall also apply to the exchange of information under this article, unless other terms are provided by the international law instrument.

(5) All the exchanges of information conducted under this article occur in accordance with Law no. 677/2001, as further amended and supplemented.”

**3. At article 107, paragraph (6) is amended and it shall include:**

“(6) Where the tax return is submitted under para. (5), after the expiry of the statute of limitation period under art. 110, a new statute of limitation period shall begin to apply on the day when the return is submitted.”

**4. At article 138, paragraph (5) is amended and it shall include:**

“(5) The advance documentary tax control means the comparison between, on the one hand, the income declared by the natural person or by the payers and, on the other hand, the estimated income determined based on the natural person’s personal tax statement. This control is conducted by considering the documents and the information held/obtained by the central tax body, which are relevant for the identification of the tax situation, with the notification of the natural person.”

**5. At article 167, paragraph (12) is amended and it shall include:**

“(12) The receivable VAT entered in the value added tax return relating to the fiscal year prior to the opening of the insolvency proceedings is compensated under this article with the debtor’s tax obligations that were generated prior to the opening of the proceedings.”

**6. At article 194 paragraph (1), after letter m) a new letter is inserted, letter n), which includes the following:**

“n) the tax debts owed by debtors who merge, under the law, and who do not benefit from the spreading out of payments shall be paid within maximum 30 days after the communication of the payment notification, unless the debtor requested the spreading out under art. 195."

**7. At article 195, after paragraph (11) a new paragraph is inserted, paragraph (12), which include the following:**

“(12) The provisions of this article apply accordingly to the tax obligations of a debtor who does not benefit from the spreading out of the payments and merges, under the law, with another debtor who benefits from the spreading out of the payment.”

**8. At article 208, after paragraph (5) a new paragraph is inserted, paragraph (6), which includes the following:**

“(6) For the application of the reduction under art. 181 para. (2) letter b), the provisions of this article also apply correspondingly to the penalty of failing to declare in relation to the spread out of tax obligations.”

**9. At article 220, after paragraph (2) two new paragraphs are inserted, paragraphs (21) and (22), which include the following:**

"(21) By exception from para. (2), special cases of forced execution, as well as the structure authorized to fulfil the precautionary measures and to conduct the forced execution proceedings are established by order of the president of A.N.A.F.

(22) The competent central tax body notifies the taxpayer any time changes occur in relation to the special cases of forced execution, as well as the structure authorized to fulfil the precautionary measures and to conduct the forced execution proceedings.”

**10. At article 235, paragraph (1) is amended and it shall include:**

“(1) In case of appeals filed against administrative tax act that establish tax debts, under this code, including during the settlement of the action in the administrative court, the forced execution is suspended or does not begin for the tax obligations against which appeal is filed, if the debtor submits to the competent tax body a letter of guarantee/ guarantee insurance policy at the level of the tax obligations appealed and not paid on the day when the guarantee is submitted. The validity of the letter of guarantee/ guarantee insurance policy shall be at least 6 months after it is issued.”

**11. Article 272 is amended and it shall include:**

“ART. 272

(1) The appeals filed against the notices of assessment, administrative tax acts similar to notice of assessment, decisions for the adjustment of the statement, issued in accordance with the customs legislation in force, the measure for the decrease of tax loss, set out by an order of measures, as well as against the decisions of repeating the control are settled by the specialized appeal settlement structures.

(2) The specialized appeal settlement structure in the regional general directorates of public finance in the territorial range of which reside the appealing parties is competent for the settlement of the appeals whose object is:

a) tax debts amounting to maximum 5 million lei;

b) the measure of decrease of the tax loss amounting to maximum 5 million lei and the decisions of repeating the control, except where the settlement competence lies with the general directorate under para. (5).

(3) The specialized appeal settlement structure in the General Directorate for Large Taxpayer Administration is competent to settle the appeals filed by large taxpayers, whose object is:

a) tax debts amounting to maximum 5 million lei, except those issued in accordance with the customs legislation for which the settlement competence lies with the general directorate under para. (5);

b) the measure of decrease of the tax loss amounting to maximum 5 million lei.

(4) The appeals submitted by non-resident taxpayers who do not have a permanent establishment on the Romanian territory, which have as object tax debts amounting to maximum 5 million lei, are settled by the specialized appeal settlement structure in the regional general directorates of public finance/ the competent General Directorate of Large Taxpayer Administration for the administration of the debts of that non-resident taxpayer. Where the competence of administration of the debts owed by the non-resident taxpayer belongs to the General Directorate for Large Taxpayer Administration, and the appeal concern tax debts amounts to at least 5 million lei, the appeal settlement competence shall lie with the general directorate provided under para. (5).

(5) The general directorate for the settlement of appeal, in A.N.A.F., has competence for the settlement of appeals whose object is given by:

a) tax debts mounting to at least 5 million lei;

b) measure of decreasing the tax loss in the amount of at least 5 million lei;

c) decision of repeating the control, in the case of appeals submitted by large taxpayers;

d) tax debts and measure of decrease of the tax loss, irrespective of the amount, as well as the decision to repeat the control, where the appeals are filed by taxpayers against the acts issued by tax bodies of the central apparatus of A.N.A.F.;

e) adjustment decisions issued in accordance with the customs legislation, where appeals are filed by large taxpayers, irrespective of the amount.

(6) The appeals filed against administrative tax acts other than those under para. (1) are settled by the issuing tax bodies.

(7) The competence for the settlement of the appeals filed against the administrative tax acts may be delegated to another settlement body, according to the conditions set out by order of the president of A.N.A.F. The appealing party and the persons introduced in the appeal settlement procedure are informed in relation to the change of the appeal settlement competence.

(8) The appeals filed against the administrative tax acts issued by the local tax bodies shall be settled by these bodies.

(9) The appeals filed against administrative tax acts issued by other public authorities that, under the law, manage tax debts are settled by these authorities.”

**12. At article 336 paragraph (1), letter i) is amended and it shall include:**

“i) the failure of the credit institutions and of other persons who send information to the National Office for the Prevention and Fight against Money Laundering to comply with any obligation regarding the supply of information under art. 61, as well as the banks’ failure to meet the reimbursement obligations under art. 172;”.

**13. At article 347, after paragraph (1) a new paragraph is inserted, paragraph (2), which includes the following:**

“(2) The causes of interruption or suspension of the statute of limitation are subject to the law in force on the day when they occur.”

**14. At article 352, after paragraph (3) eight new paragraphs are inserted, paragraphs (4) - (11), which include the following:**

“(4) By exception from para. (1) and (2), forced executions in progress on the day when this law enters into force are continued under this code, the previously fulfilled acts remaining valid.

(5) By exception from para. (1) and (2), the provisions of e art. 6, 8, 13, and 133 also apply to the administration proceedings in progress on 1 January 2016.

(6) The taxes provided at art. 52 apply to the requests of issuance/amendment of an advance pricing arrangement or individual advance tax solution, as applicable, filed after 1 January 2016.

(7) The provisions of art. 129 apply to the recurrence of the tax audit ordered by decisions of settlement of the appeals issued after 1 January 2016.

(8) The provisions of art. 186 - 209 also apply to the tax obligations for which payment spreading out was granted until 1 January 2016.

(9) The provisions of art. 213 para. (7) also apply to the precautionary measures applied before 1 January 2016. Here, the 6-month and 1-year terms begin on 1 January 2016.

(10) The provisions of art. 278 para. (2) apply to the requests for the suspension of the execution of the administrative tax act filed after 1 January 2016, as well as to the requests of suspension whose settlement is in progress at that date.

(11) The provisions of art. 278 para. (4) apply to the requests for the suspension of the execution of the administrative tax act admitted in the court of law after 1 January 2016."

ART. III

(1) In chapter I of title X of Law no. 207/2015 regarding the Code of Tax Procedure, the term “precaution” is replaced with the phrase “tax diligence”.

(2) The phrase “joint order of the minister of regional development and public administration and of the minister of public finance” included in art. 11 para. (9), art. 24 para. (3) letter b), art. 26 para. (9) letter b), art. 46 para. (8), art. 47 para. (9), art. 79 para. (5), art. 80 letter b), art. 101 para. (2) letter b), art. 150 para. (5) letter b), art. 153 para. (3) letter b), art. 154 para. (2) letter b), art. 164 para. (6) letter b), art. 247 para. (5) letter b), art. 253 para. (6) letter b) and art. 342 para. (2) of Law no. 207/2015 is replaced with the phrase “order of the minister of regional development and public administration, with endorsement from the Ministry of Public Finance".

ART. IV

(1) This emergency ordinance shall enter into force on 1 January 2016.

(2) The provisions of art. 272 of Law no. 207/2015, as amended by this emergency ordinance, shall apply to the appeals filed after 1 January 2016.

(3) The appeals filed prior to 1 January 2016 shall be settled by the competent settlement bodies on the day when they were filed.

ART. V

(1) Law no. 227/2015 regarding the Tax Code, published in the Official Gazette of Romania, Part I, no. 688 of 10 September 2015, as further supplemented, shall be republished in the Official Gazette of Romania, Part I, after the approval by law of this emergency ordinance, with a new numbering of the texts.

(2) Law no. 207/2015 regarding the Code of Tax Procedure, published in the Official Gazette of Romania, Part I, no. 547 of 23 July 2015, shall be republished in the Official Gazette of Romania, Part I, after the approval by law of this emergency ordinance, with a new numbering of the texts.