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flash Alert

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Romania – New Information Statement, Worldwide Taxation Rule, and Penalties for Non-Compliance

by KPMG Tax, Bucharest
(KPMG in Romania is a KPMG International member firm)

This GMS *Flash Alert* focuses on several developments concerning Romania's Fiscal Code that took effect in January 2016, including a new information statement, Form 402; changes to the time-frame for being subject to taxation on one's worldwide income; and new penalties for undeclared taxable income.¹

Why This Matters

Individuals subject to taxation in Romania, their employers, and their tax service providers need to be aware of the new information reporting obligations with respect to Form 402. There is much detailed information that must be gathered and reported in the Form. Extra time and effort may be necessary to fulfill this new compliance obligation. Moreover, **the deadline for this year is fast approaching: 29 February 2016**. Failure to submit timely and accurately could result in the imposition of fines and penalties. Therefore, concerned parties should take the necessary steps immediately.

In addition, employers bringing employees into Romania, as well as the employees themselves, should take note of the changed rules around the taxation of worldwide income. Rather than becoming subject to worldwide income taxation upon the second consecutive year that taxpayers meet the residence test, they will become taxable on worldwide income as of the date they become resident. This will have implications for tax declarations as well as tax costs.

New Information Statement, Form 402

Effective this year, a new information statement, **Form 402 is required with respect to salaries and similar income, including directors' fees², earned in Romania by individuals resident in other European Union (EU) member states.³** This Form, introduced by the National Agency for Fiscal Administration, is required to enable cooperation between the tax administrations of the EU member states, within the meaning of EU Directive 2014/107/EU on the mandatory automatic exchange of information.

Who Is Required to Submit Form 402?

All entities that have paid salaries or other similar remuneration, including directors' fees, for services rendered in Romania to residents of other EU member states must file Form 402.

When to Submit Form 402?

Form 402 must be submitted in electronic format, no later than the last day of February of the current year for the previous year. According to information on the National Tax Authority's Web site, **the first reporting year is 2015 and consequently the deadline for submitting the statements for this period is 29 February 2016**.

KPMG Note

A high level of detail is required to complete Form 402. For example, entities are required to include details about the type of income/remuneration derived (e.g., salaries, allowances / remuneration of managers, directors or board members, amounts from net profit, bonuses, commissions, fees, loyalty allowances, relocation allowances, benefits-in-kind, indemnities, etc.), the tax treatment of each type of income/remuneration, and whether these amounts have been included in the monthly tax returns.

Changes Regarding Worldwide Taxation Effective 1 January 2016

Foreign individuals who meet the residence test will be liable to Romanian personal income tax on their worldwide income **as of the date they become residents**.⁴

KPMG Note

This change eliminates an important exception according to which such individuals become liable to Romanian personal income tax on their worldwide income only starting the second consecutive year in which the residence test was met.

Penalties for Non-Declaration

For principal tax obligations undeclared or incorrectly declared, the tax authorities will assess penalties of 0.08 percent per day from the day following the due date up to the date of settlement of the amount due.⁵ Such penalties are increased by 100 percent if the main tax obligations have resulted from tax evasion acts.

KPMG Note

Currently a tax amnesty law is in force which provides for the cancellation, under certain conditions, of 100 percent of the late payment penalties and of a 54.2 percent share of late payment interest related to tax obligations due as at 30 September 2015. The tax amnesty is available for a limited period (the principal debt should be paid by the end of March 2016 at the latest) and it encourages full voluntary disclosure.

Given this window of opportunity offered by the tax authorities for the tax amnesty, any non-compliance identified (failure to declare taxable income) in the future will be severely punished by applying the penalty of non-declaration mentioned above.

Footnotes:

1 For prior coverage, see GMS [Flash Alert 2015-131](#), 30 October 2015.

2 This would also include compensation to members of an Executive Board or Supervisory Board.

3 Order no. 2727/2015 regarding the approval of the model and content of certain informative statements (the "Order") has been published in *Monitorul Oficial* (Official Journal of Romania), no. 0924 of 14 December 2015. For the published laws and other statutory instruments of Romania (in Romanian), see the Web site for *Monitorul Oficial* at: <http://www.monitoruloficial.ro/>.

Footnotes (cont'd):

4 Law no. 227/2015 on the Fiscal Code (the "New Fiscal Code") has been published in *Monitorul Oficial* (Official Journal of Romania) no. 688 of 10 September 2015.

5 Law no. 207/2015 on the Fiscal Procedure Code has been published in *Monitorul Oficial* (Official Journal of Romania) no 547 of 23 July 2015.

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For further information or assistance, please contact your local GMS or People Services professional or Madalina Racovitan (tel. +40 372 377 782 or e-mail: mracovitan@kpmg.com), GMS country leader with the KPMG International member firm in Romania.

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