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flash Alert

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Romania – Wages, Taxation of Investments, and Filing for Rental Income

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

In this GMS *Flash Alert*, we report on various changes that have recently entered into force in Romania with respect to:

- the taxation of investment income obtained by individuals, such as dividends or benefits-in-kind granted in the form of various equity compensation plans;
- the national minimum gross wage, which changed as from May 2016; and
- new filing obligations for individuals earning rental income or those who earn no income whatsoever.

Why This Matters

When planning future investment decisions, both corporate entities and individuals may want to keep in mind that the Romanian income tax rate applicable to dividends decreased from 16 percent to 5 percent at the start of 2016.

As from 2016, certain equity compensation plans may benefit from favorable tax treatment – non-taxable at grant and vesting – because the definition of a stock option plan has changed and is now more comprehensive. Companies should bear this in mind when structuring remuneration packages. A detailed analysis of their existing equity compensation plans may also be beneficial in terms of fostering tax efficiencies.

Companies should be aware of an increase in the Romanian minimum gross wage when planning to second employees to Romania. Applicable from May 2016, the increase affects employers by increasing their salary and salary-related costs. It may also affect family members of assignees to Romania, because individuals with no income are liable to pay Romanian health insurance contributions based on the level of the national minimum salary, in certain conditions.

Romanian tax residents deriving rental income from abroad should be made aware of new Form 602, which makes it easier for them to claim the exemption from payment of Romanian health insurance contributions under certain conditions.

What Is New?

Income tax related to dividends has been decreased to 5 percent (from the initial tax rate of 16 percent) – This change had been planned to enter into force only from 2017. However an ordinance[2] amending the Tax Code has now brought this forward so that the 5-percent rate will apply from 2016. The aim is to enhance investment in Romania.

New definition for "stock option plans" – According to the new definition, stock option plans are deemed to include any programs set up by a legal entity whose shares/securities are listed on a regulated capital market or an alternative trading market, under which employees or directors of the issuing entity or of other entities affiliated to

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the issuing entity have the right to purchase a certain number of such securities at a discounted price or even free of charge, if the vesting period is a minimum of one year.[3]

Stock option plans have favourable tax treatment according to Romanian legislation, as they are deemed non-taxable benefits-in-kind both at grant and at vesting.

Before 2016, stock option plans were defined in the National Securities Commission Norms. However the Norms were not very clear on certain key elements such as the employment relationship between the issuing entity and the individuals receiving the right to purchase shares, the vesting period, etc.

Consequently, in the absence of a clear definition, prior to 2016, very few equity compensation plans qualified as stock option plans, and thus very few plans benefitted from the favourable tax treatment under Romanian legislation.

KPMG Note

Given the new and more comprehensive definition of stock option plans, it is advisable for companies to review and analyze the tax treatment applicable to their equity compensation plans. Appropriate tax treatment adjustments may help to improve the companies' tax position.

The national minimum wage has increased by 19 percent from May 2016 from RON 1,050 to RON 1,250, for an eight-hour working program – The minimum wage is a mandatory labor requirement and companies seconding staff to Romania should take care to apply it.

The increase in the national minimum wage brings an increase in the health insurance contribution due by individuals who do not earn income and who are not considered dependents of an insured person (e.g., children over 18 who are no longer attending school, any other family members apart from spouses, etc.). This contribution is calculated as 5.5 percent of the level of the national minimum wage (RON 1,250 as from May 2016).

New form (Form 602) for health insurance exemption on rental income – Romanian tax residents earning rental income from outside Romania are exempt from paying the health insurance contribution on this type of income if they are insured in another European Union member state or in a country with which Romania has concluded a social security agreement, provided that supporting documents (i.e., a certificate of coverage) can prove as such and if the Form 602 is submitted together with the annual Romanian tax return.

Footnotes:

1 Law no. 227/2015 on the Fiscal Code was published in *Monitorul Oficial* (Official Journal of Romania), no. 688 of 10 September 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/.

2 Ordinance 50/2015 to amend Law 227/2015, published in *Monitorul Oficial* (Official Journal of Romania), no. 817 of 3 November 2015.

3 For related coverage, see GMS *Flash Alert* 2015-131, 30 October 2015.

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For further information or assistance, please contact your local GMS 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.

A New Video from the GMS Practice!

With Numbers of Expatriators on the Rise, a Reminder of the Tax Implications

There has been a lot of news in recent months about the number of individuals who expatriate from the United States. This number has risen considerably from year to year, according to Treasury figures. People expatriate for many reasons, including tax, but there are indications that the Foreign Account Tax Compliance Act may be encouraging people to expatriate as well. In this video, we focus on what it means to be an "expatriator" and the tax implications especially for international assignees who have come to the U.S., have become long-term residents, and then decide they wish to return to their home countries and cease to be lawful permanent residents by either relinquishing their green cards or claiming the benefit of the tie-breaker provision of an income tax treaty.

With Numbers of Expatriators on the Rise: A Reminder of the Tax Implications – (app. 7-1/2 minutes)

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