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GMS Flash Alert

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Romania - Important Tax Code Amendments Affecting Individuals and Their Employers

Significant amendments to the Romanian Tax Code are expected to come into force as of January 2021, regarding both changes in income tax rates for certain categories of individuals and clarifications as to the method of taxation for various types of benefits. These amendments will have an impact on personnel seconded to Romania, as well as on the Romanian entities paying out benefits to their employees/assignees seconded to Romania.

WHY THIS MATTERS

The measures to be adopted should be taken into consideration by Romanian entities granting benefits to their employees/ assignees as they will affect the amounts subject to tax at the individuals' level. Also, the method of taxation that applies to the benefits granted under certain secondment structures is clarified; therefore companies should review their policies regarding benefits payments in order to make sure they are compliant with the new provisions.

Details

The law containing the amendments to the Romanian Tax Code has been under discussion for a while and is now in final form, awaiting promulgation.[1] It is expected that the law will be published in the official journal (*Monitorul Oficial*) of Romania this month, and its provisions applicable as of January 2021.

This law foresees a large number of changes and clarifications; we will focus on some of the key ones for individuals – including those on international assignment – and their employers.

- Change of the **tax rate for nonresident individuals** who obtain Romanian-source income, from 16% to 10% (will be aligned with the 10% quota already in place for resident individuals).

- The **deadline for the submissions of annual tax returns** and payments of income tax in respect of non-salary income will be pushed back from 15 March to 25 May of the year for the income derived in the previous year.

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- Clarifications are provided as to the person responsible for the declaration and payment of income tax on benefits granted/paid by third parties:

    - Individuals with labour contracts concluded with non-Romanian entities and who receive benefits in cash/in kind from the foreign entity or from the Romanian entity, **are personally liable to declare such benefits through the monthly tax return**;

    - Individuals with labour contracts concluded with Romanian entities and who receive benefits in cash/in kind from the foreign entity **are personally liable to declare such benefits through the monthly tax return, but the Romanian employer may opt to declare them through payroll**;

    - In the case of gift vouchers, if they are granted through the Romanian employer, the employer should declare them through payroll, otherwise the entity (Romanian resident) that grants them should declare them through payroll.

- A new category of **non-taxable benefits** is introduced for amounts covering **expenses for 'work-from-home' employees**, within the limit of RON 400/ month per employee, pro-rated according to the actual days worked during the month.

- The **non-taxable amount** for payments granted to employees for **tourism services** will be **capped** at an average gross salary per year (previously not capped).

- In the case of **stock option plans**, the date or moment of grant will be clarified as being a non-taxable event for limited liability companies (previously stipulated only for joint stock companies).

- For individuals insured under the Romanian social security system as per the provisions of EU Regulation 883/2004, who obtain income from Romanian nonresident entities for work performed outside Romania as board members/administrators (and other similar positions), **the social security contributions due will be declared through the annual tax return** (previously done through monthly/quarterly returns).

- Clarifications are provided as to the moment **when an individual becomes tax resident in Romania**: that is, as of the first day he/she exceeds 183 days of presence in Romania or as of the date he/she declares that his/her centre of vital interest is in Romania (previously not clear under the law and subject to the interpretation of each territorial tax office).

KPMG NOTE

The changes under this law have been made based on input from tax consultants and civil society and represent long-awaited clarifications. Individuals and employers should be aware of these changes and consult with their tax advisers to determine what gaps exist and what changes need to be made, so that they can adapt their policies and practices, communicate clearly and timely to all stakeholders regarding the changes, and foster proper compliance.

FOOTNOTE:

1 *Proiect de Lege nr. 478/2019 pentru modificarea și completarea Legii nr. 227/2015 privind Codul Fiscal – forma pentru promulgare*.

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Contact us

For additional information or assistance, please contact your local GMS or People Services professional or the following professional with the KPMG International member firm in Romania:

Mădălina Racovițan
Partner,
Head of People Services
Tel. +40 372 377 782
mracovitan@kpmg.com

The information contained in this newsletter was submitted by the KPMG International member firm in Romania.

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