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Tax Newsflash

Changes to the Definition of Permanent Establishment in the Romanian Fiscal Code

In the Official Journal of Romania, Part I, No. 945 of 12 November 2026 Law No. 213/2026 (hereinafter “the Law”), was published, amending Article 8, paragraph (5), letter a) of the Fiscal Code (Law No. 227/2015). The Law introduces changes to the criteria for the existence of a permanent establishment in Romania for non-resident companies operating through a dependent agent, effective as from 1 January 2027.

Main provisions

Expanded criteria for permanent establishment via dependent agent

The Law clarifies that a person is considered to create a permanent establishment not only if they are authorized and exercise authority in Romania to conclude contracts, but also if they “habitually play the principal role leading to the conclusion of contracts that are routinely signed without substantial modification by the non-resident company.”

The legal text specifies that this condition is met if the relevant contracts satisfy any of the following:

- They are concluded in the name of the non-resident company;
- They relate to the transfer of ownership or granting of the right to use properties held by or available to the non-resident company;
- They concern the provision of services by the non-resident company.

The Law further clarifies that “concludes contracts” includes:

- Situations where a contract is concluded without any active negotiation of its terms, or is concluded in Romania according to Romanian law, even if signed outside Romania;
- Situations where a person negotiates in Romania all elements and details of a contract binding the non-resident company in Romania, even if the contract is signed by another person outside Romania.

KPMG comment

The amendment aims to clarify the definition of a dependent agent in the Fiscal Code and align it with international tax practice and double taxation treaties. This adjustment also contributes to strengthening tax equity, reducing under-taxation, and harmonizing the national framework with applicable international standards for profit taxation.

In essence, the definition of permanent establishment remains unchanged: a permanent establishment in Romania may arise if there is a fixed place where the non-resident’s economic activity is carried out, or if there is a dependent agent who concludes contracts in the name of the non-resident, including cases where the Romanian dependent agent does not physically sign the contracts.

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