Approval of amendments to fiscal and customs legislation

29 January 2014

In brief

The law no. 324 dated 23 December 2013[1] has been introduced approving the the most significant amendmends to the Republic of Moldova's fiscal and customs legislation.

In detail

Tax Code

Income tax

A personal income tax rate of 18% applies as of 1 January 2014 to taxable income exceeding MDL 27,852 (compared to the threshold of MDL 26,700 in 2013).

The following have been added to the list of non-taxable income:

- Financial funds in the form of grants from Government-approved programmes;
- Income from reversing impairment losses on depreciation of fixed and other assets;
- Royalty income of individuals aged 60 and over in the field of literature and art;
- Income obtained under international projects and grants which contribute to the long-term development of education and research.

Income obtained by individuals from sale of primary agricultural products for the benefit of:

- individuals – is non-taxable income;
- companies, institutions and organisations (with certain exceptions) – is taxed with 2% final Withholding tax.

Deductions

The following deductions have been added:

- Expenses amount paid by taxpayers in the form of union dues and fees, capped at 0.15% of the labour remuneration fund;
- Provisions for covering the receivables of leasing companies, under certain conditions provided by Law.

The impairment of fixed and other assets determined based on new national accounting standards is not deductible for corporate income tax purposes.

Personal income tax

Annual allowances which resident individuals are eligible to benefit from have been increased, as follows:

- Personal / spouse allowance – from MDL 9,120 to MDL 9,516;
- The major personal / spouse allowance – from MDL 13,560 to MDL 14,148;
- The simple allowance for dependents – from MDL 2,040 to MDL 2,124, and for people with disabilities from childhood – from MDL 9,120 to MDL 9,516.

Employees have the option of transferring an amount not exceeding 2% of the personal income tax for the benefit of non-commercial organisations and religious institutions, in accordance with Government provisions.

[1] Law no. 324 dated 23 December 2013 on changes and additions to some legislative acts

Capital gains and losses

The categories of capital assets and the methodology of estimation of the value basis for certain assets (in the taxpayer's possession as of 1 January 1998) have been amended.

Transition to new national accounting standards

Differences resulting from the transition to national accounting standards in force as of 1 January 2014 are not recognised for tax purposes.

Liquidation and reorganisation of companies

The following amendments have been introduced:

- The provisions regarding tax treatment applied for partial liquidation have been removed;
- The value basis of fixed assets transferred as a result of reorganisation is the value basis registered in accounting records at the beginning of the year in which the reorganisation takes place;
- The deadline for submitting the corporate income tax return at cessation of activity by companies has been extended from 60 days to 6 months.

Withholding tax

The obligation of applying withholding tax on payments in the benefit of the attorneys-at-law, public notary, bailiff and the personal office of the mediator has been removed.

Supply of information

The Main State Tax Inspectorate should receive information from the following:

- Social Security House - about refunds of social security contributions;
- Pawn shop - about loans granted to individuals;
- Ministry of Justice - about the list of non-commercial companies.

Incentives

As of 2014, all companies benefit from the right to reduce their taxable income by the amount provided by law, if the average number of employees has increased since the previous year.

Companies have to provide the tax authorities with data on their employees involved in developing software and benefiting from personal income tax incentives.

Value added tax (VAT)

Electronic tax invoice

The term "tax invoice" has been changed, by including the two forms in which they can be issued: on paper and electronic form.

The software "Electronic tax invoice" is at the testing stage.

VAT subjects, Objects and tax rates

The categories of entities subject to VAT have been amended, by adding permanent establishments of non-residents performing entrepreneurial activity in the Republic of Moldova. These permanent establishments have to meet certain criteria provided by Law.

Supply of goods in customs warehouse regime is treated as outside the scope of VAT.

The reduced 8% VAT rate has been reintroduced for:

- phytotechnical, horticultural and zootechnical products produced and delivered within the Republic of Moldova, as well as for
- beetroot sugar imported and / or delivered within the country.

Moreover, the mechanism for VAT refund for primary agricultural products has been removed.

Goods and services which enter or leave the territory of International Port Giurgiulesti from outside the Republic of Moldova territory are taxed at the nil VAT rate. This provision applies retroactively from as of 4 March 2005.

VAT exemption

The list of VAT exempted goods has been amended by excluding and adding certain tariff codes.

The VAT exemption for long-term assets intended to be included in the statutory (social) capital has been reintroduced, provided the following conditions are fulfilled:

- The assets should be used at product manufacture, service supply and / or execution of works;
- The assets' depreciation should be included in the cost of the manufactured products / supplied service / executed work;
- These assets should not be sold, rented / leased (under operation or financial leasing) for a three-year period.

The deadlines for VAT liabilities were introduced separately for financial and operational leasing.

Excises

The most important amendments are as follows:

- Introduction of provisions regarding the annulment and suspension of excise taxpayers;
- Extension of the possibilities to refund excises on account of future liabilities;
- Increased excises for cars and fuels;
- Increased excises for specific tariff codes, especially those for alcoholic beverages (beer, vermouth and other fermented beverages), cigarettes and other tobacco products.

Tax administration

The notions “tax visit” and “diminishing of taxes and other payments” have been introduced. Some significant amendments regarding tax inspection procedures have been introduced:

- Experts and qualified specialists can be contracted by the tax authorities during tax inspections;
- The three-month term for initiating a tax inspection performed at tax authorities' office has been removed;
- Provisions concerning indirect methods for estimating individuals' taxable income have been amended ;
- The term for informing the tax authorities about a change of headquarters or a new subdivision has been extended from 30 to 60 days.

The procedure and the date of settlement of tax liabilities have been amended. The settlement of tax liabilities as prescribed by Law and by compensation are to be performed in line with a Government decision.

Fines

The most important changes are:

- Establishing fines for non-compliance with provisions concerning indirect methods for estimating the taxable income of individuals; the fine amount computation depend on the type of infringement;
- Changing the structure and the amount of tax fines for non-utilisation of cash control registers / cash payment terminal, as well as for not issuing travel tickets;
- Diminishing the fines for non-compliance with tax report completion requirements, submission and storage, as well as for not recording tax invoices in the Electronic Register;
- Establishing fines for the absence of excise duty stamps or use of invalid stamps;
- Establishing fines for the removal or damage of the seal applied by the Tax Authority.

The tax authorities will automatically issue decisions for 50% reductions of fines, provided the data from the tax authorities' information system proves fulfilment of required conditions.

Road taxes

Changes concerning the method of calculation and payment of road taxes have been included for cars not registered in the Republic of Moldova using the country's roads.

Food, transport and professional education granted to employees

Staring 2014 company expenses for providing employees with food, transport and professional education in a limited amount and based on criteria established by Government decision:

- are not treated as benefits in kind granted by the employer;
- are deductible for corporate income tax purposes;
- are not taxable with VAT;
- are not subject to medical insurance contributions.

Customs tariff law

The most important amendments concerning customs tariff include:

- "Royalty" definition and provisions concerning the royalties included in the customs value;
- Provisions concerning the extension of the customs duty payment term;
- Methods of refund of customs taxes additionally paid, adjusted in accordance with the rules provided by the Tax Code, especially for VAT and excise refund;
- Cancellation of the tax for performance of the electronic control of goods placed in the transit custom regime and transported by auto vehicle, with some exceptions.

Customs code

A number of significant changes have been introduced in the Tax Code:

- New notions (such as: risk administration, customs control corridor), which refer to the risk management system applied by the customs authorities in accordance with international standards;
- The rule of treating all doubts generated by customs law in favour of the taxpayer;
- New provisions regarding the exchange of information between the customs authorities and legal entities;
- Prohibitions for entering and / or placement under customs regime of auto vehicles;
- The possibility of extension for the transit customs regime;
- Criteria for establishing goods origin in cases of involvement of many countries;
- New provisions regarding release into free circulation of goods for which tax and customs incentives are granted;
- The term for issuing customs authorisations;
- Amended provisions for release into free circulation of goods in financial or operational leasing and the calculation of related customs liabilities;
- The terms for payment of the difference between customs liabilities determined based on goods value established at Customs and based on declared value;
- The categories of customs payers in cases of smuggled goods.

Some complex sections have also been introduced regarding:

- forced execution of customs liabilities;
- simplified customs procedures;
- authorised economic operators.

Customs administration

The amendments provide that the customs authorities have the right to collect additional customs duties, if during the post clearance inspection the provisions concerning certain customs regimes were applied incorrectly, even in the absence of complete and exact data provided by the declarant.

The value limit for goods which are not taxed with excises, custom duties and VAT introduced onto the territory of the Republic of Moldova by individuals has been increased from **EUR 200** to **EUR 300**.

[Source: Monitorul Oficial no. 320-321/871 dated 31 December 2013]

The takeaway

The legislative tax and customs changes entered into force as of 1 January 2014, with some exceptions, which have been mentioned above.

Let's talk

For a deeper discussion of how this new legislation might affect your business, please contact:



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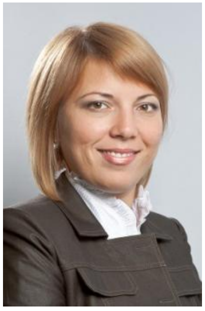

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