

# Approval of amendments to tax and customs legislation

29 April 2015

## **In brief**

A new Law has been published providing significant amendments 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 May 2015 to taxable income exceeding 29,640 MDL (compared to the threshold of MDL 27,852 in 2014).

Compensation for dismissal is no longer treated as non-taxable income.

#### **Deductions**

The following expenses are allowed for deduction:

- Expenses related to calculation of depreciation of fixed assets received free of charge and put into usage in the tax periods previous to 2014;
- Expenses incurred by employers related to employee optional contributions of health insurance – 50% of the amount of compulsory health insurance contribution calculated as a fixed amount and approved annually.

#### **Limitations / restrictions for some categories of deductions**

The limit of expenses permissible for deduction, incurred for philanthropic and / or sponsorship purposes, has been reduced from 10% to 2%.

The deduction of expenses related to calculation of depreciation, maintenance of automobiles used by individuals with leading positions in a company, including administration manager are limited to one automobile for each subdivision that company.

Financial institutions can deduct the discounts for losses of assets and other conditional commitments according to the provisions of the Main State Tax Inspectorate. The deduction was previously performed according to regulations approved by the National Bank of Moldova.

As of 1 January 2017, deduction of expenses related to residues, waste and natural perishability will be allowed only within the limits approved by the relevant central public authorities, under a regulation approved by the Government. Deduction of these expenses was previously allowed within

the limits approved annually by the head of the company.

#### **Application of simplified taxation regime**

The provision that obliged companies to use the simplified taxation regime has been excluded.

The conditions under which companies have the right to choose between the simplified taxation regime and the general established one have been revised.

#### **Bookkeeping methods**

A new criterion of defining accrual accounting has been introduced, thereby establishing the method of recognition of granted / received price cuts, discounts and rebates.

#### **Special provisions related to international treaties**

Non-resident individuals and companies may provide their certificate of residency in electronic or in hard form to the person paying the income.

In order to benefit from the provisions of the Double Tax Treaties concluded between the Republic of Moldova and the state of origin of non-residents, the Moldovan

Government has established the manner of attesting and confirming the tax residency.

**Provision of information on payments made for the benefit of individuals and related withholding tax**

A liability has been added for companies to provide annual information on income paid for the benefit of individuals, from which final withholding tax was retained. The provision of information is mandatory only if the amount of income paid for the benefit of individuals exceeds the annual personal allowance of MDL 10,128 for 2015.

For adjustments of information on payments and related withholding tax, a liability has been added to notify the payment beneficiary within 15 working days from the date the decision on tax infringement was amended or issued.

By the twenty-fifth of the month following the end of the reporting tax year, real-estate intermediaries should submit to the Main State Tax Inspectorate the information concerning agreements on transmission of the possession or usage right over real estate concluded with individuals not performing business activity.

**Personal Income Tax**

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

- Personal / spouse allowance – from MDL 9,516 to MDL 10,128;
- The major personal / spouse allowance – from

MDL 14,148 to MDL 15,060;

- The simple allowance for dependents – from MDL 2,124 to MDL 2,256, and for people with disabilities from childhood – from MDL 9,516 to MDL 10,128.

The private optional health insurance of 50% of the fixed amount health insurance contribution is not treated as benefits in kind.

**Value Added Tax (VAT)**

As of 1 May 2015, lending of fungible goods, except money, is treated as supply of goods.

The provision of services related to import of goods is considered as a component part of the import of goods.

There is no longer a liability to calculate and pay the VAT on supply of services and goods below cost or below customs value.

New provisions have been added regarding supplies / purchases in / from International Port Giurgiulesti and International Free Airport Marculesti.

**VAT refund**

Companies investing in manufacturing buildings as of 1 May 2015 will have the right to benefit from VAT refund. The refund will be allowed only for buildings put into use and used according to their destination.

The list of documents confirming the entitlement to VAT refund has been amended as follows:

- The customs declaration on export of goods or its

electronic excerpt signed electronically is added;

- The confirmation of customs authorities on export of goods is excluded.

**Input VAT**

Deduction is allowed of input VAT paid or to be paid for maintenance, operation and repair expenses for a single car used by general, executive and other similar directors or by administrative managers per company subdivision, including the headquarters. The input VAT related to maintenance, operation and repair of cars other than those previously mentioned will be allocated to expenses or costs.

**VAT exemption**

Explicit provisions have been added on the exclusion of the VAT exemption for granting licences or patents related to import of goods according to the art. 11 alin. (1), p. d) of the Law on customs tariffs.

Exemption from VAT and customs duty has been introduced for some air and rail transport for passengers, as well as the VAT exemption for financial or operational leasing of such vehicles.

Samples of goods with values lower than EUR 22 are also VAT exempted upon their import, provided some conditions are met and with certain exceptions.

Certain special purpose vehicles, imported and supplied free of charge, will be VAT exempted, regardless of the term of exploitation.

In cases of non-compliance in benefiting from the tax

incentive concerning the long-term tangible assets used directly in manufacturing goods, providing services and / or execution of works, which are to be included in statutory capital, beneficiary companies will be obliged to calculate and pay VAT as follows:

- for assets purchased in Moldova - on the amount indicated in the invoice; and
- in the case of import - on the customs value.

#### **VAT rates**

The nil VAT rate has been set for supply of woody, herbaceous and fruit biomass used for the production of electricity and hot water.

Udenatured ethyl alcohol used in medicine is charged with a reduced VAT rate of 8%.

#### **The place of supply of services**

The name of some services, the nature of which determines the place of supply, has been adjusted in accordance with the new Classifier of activities in Moldova.

#### **Registration and cancellation of VAT payer status**

The ceiling of MDL 100,000 used for voluntary registration as a VAT payer has been annulled. Thus, companies will be able to register as VAT payers if they intend to perform taxable supplies of goods or services.

The tax authorities have lost the right to cancel independently VAT payer status for taxpayers not performing taxable supplies

exceeding MDL 100,000 over a period of 12 consecutive months.

The tax authority can still cancel the VAT payer status if the information on central headquarters and headquarters of subdivisions is incorrect.

#### **Issue of VAT invoices**

An obligation has been introduced for companies in electronic commerce to issue VAT invoices, with payment in cash and / or via other payment instrument.

There is no longer an obligation to issue a VAT invoice upon receiving payment before the delivery of petroleum products by issuing fuel tickets or filling smart-cards.

Changes have been made regarding the issuing of VAT invoices on supplies of electricity.

#### **Excises**

The most important amendments are as follows:

- Amended rules for excises refund;
- Increased excises for certain headings, in particular alcoholic beverages (beer, vermouth and other fermented beverages, ethylic alcohol), cigarettes and other tobacco products;
- Increased excises on cars and fuel;
- Reduced excise on fuel oil;
- Introduction of obligation to perform inventory of stock of excisable goods, in

cases of excise rates increasing and payment of excise duty differences on alcoholic products (beer, vermouth and other fermented beverages, ethylic alcohol);

- Excise exemption on import of sample of goods (with customs value not exceeding EUR 22 per import).

#### **Tax administration**

The most important amendments are as follows:

- As of 1 January 2016, companies will be required to use only computerised information systems and software for cash machines certified by the Certification commission of the Ministry of Finance ("Commission"). Companies providing the information systems mentioned above will be required to certify them with the Commission. In addition, as of 1 January 2017, companies not complying with the obligations regarding the certification / use of information systems mentioned above will be subject to a fine of MDL 50,000.
- Exact provisions have been introduced regarding the date of settlement of tax liability in connection with various payment methods (for example, in the case of payment by transfer, by cash or by card).
- The conditions for postponement / rescheduling of tax liabilities have been revised.

- The deadlines for financial institutions to inform the tax authorities about the lack of funds in the bank accounts of taxpayers required to settle tax obligations have been amended.
- A new concept has been introduced regarding significant and insignificant infringements of tax legislation. In this regard, for insignificant tax infringements, only minor warnings will be applied, with fines for the significant ones.
- The fines applicable to taxpayers for hindering tax authority actions have been reduced.
- Companies to which a tax post is established and perform inputs / outputs of goods / services without informing the tax authorities will be fined. The fine is equal to the sum of these economic transactions.
- New provisions have been introduced regarding the application of fines for infringement of requirements for presentation of documents by companies on payments and / or taxes withheld.

### ***Tax on immovable property***

The period for implementing the regulations on land and real estate tax established by the Law for the implementation of Title VI of the Fiscal Code has been extended until 1 January 2017.

The deadline for reporting and payment of immovable

property tax for legal entities and individuals carrying out entrepreneurial activity and calculating the tax on immovable property based their book value is extended to 1 January 2017.

### ***Local taxes***

Amendments have been introduced to the concept and object of taxation with regard to tax on advertising devices. Further to these amendments, the tax will be calculated for the area of technical means of placing outdoor advertising and / or any other information related to entrepreneurial activity.

As an exception, information with the company name that does not exceed 0.5 m<sup>2</sup> is not included in the taxable base.

### ***Road taxes***

The rates of tax for the use of roads by vehicles registered in Moldova have been increased by 50%.

### ***Customs tariff Law***

The most important amendments concerning customs tariff include:

- Supplementing and adjusting provisions regulating the determination of customs value of goods;
- Standardising and supplementing provisions concerning the deferment of final determination of customs value of goods;
- Establishment of new notions including “Declaration of goods on the invoice / declaration of the origin of goods” and

“Manufacturer's Declaration” as instruments for confirming the origin of imported goods;

- New provisions related to the free circulation of goods by granting tax and customs incentives;
- The following have been exempted from customs duties:
  - samples of goods with customs value not exceeding EUR 22 for one import operation;
  - aircraft, helicopters, locomotives, multiple units for railways providing public transportation of passengers, and parts thereof (only certain tariff headings as provided by law);
  - certain vehicles imported free of charge (donation), regardless of the exploitation term, for certain special purposes.

### ***Customs Code***

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

- Introduction and adjustment of concepts referring to the inspection system applied by the customs authorities (application for action, small amount delivery, blue corridor, subsequent inspection);
- Prohibitions against entering and / or placement of motorcycles under customs regime;

- Permission for entering and placement under import customs regime of vehicles imported free of charge (donation), regardless of the exploitation term, for certain special purposes;
- Specification of rules applicable to the temporary admissions regime with total suspension of import duties, without provision of security, for foreign vehicles subject to bilateral or multilateral international treaties to which Moldova is a party, entered for the execution of ongoing technical assistance and investment projects;
- Provisions on settling of customs duty by decrease;
- Legal entities and individuals engaged in entrepreneurial activities without being organised as legal entities are not entitled to a refund of import duties upon re-exportation of goods;
- Establishment of timeframe for granting authorisation for certain simplified procedures and AEO certificate (Authorised Economic Operator);
- Establishment of provisions entitling the customs authority to interfere in cases of goods which are likely to infringe intellectual property rights and the procedure for destruction of goods subject to small amount deliveries.

Some complex sections have also been introduced regarding the following:

- Approved Exporter;

- Duty-free shops on territory which is temporarily not controlled by the constitutional authorities of the Republic of Moldova;
- Decision on classification of goods and further inspection on classification.

#### **Customs administration**

The limitation period for establishment of customs duties and / or amendment of the customs declaration (e.g. during the subsequent inspection) has been reduced to four years.

Under the amendments, the subsequent customs inspection system has been reformed and now includes a post-clearance inspection of goods (at the holder's registered offices and premises) and rechecking of customs declaration (at the premises of the customs authority).

In addition, specific obligations have been established for the customs authority during the subsequent inspection.

#### **Law on entrepreneurship and enterprises**

Under the amendments, lack of or incorrect indication, among others, of the cumulative mark-up upon supply of socially important goods is sanctioned by a fine of 10% of the transaction value, but not less than MDL 500 for each invoice / tax invoice. The 50% discount for fine payment within three days does not apply.

#### **Law on advertising**

Under the amendments, the use of design elements including artistic and architectural improvements containing company logo and / or trademark is not considered advertising and does not require authorisation by local authorities. Other emblems, goods or their image, and other information corresponding to an enterprise's profile are considered advertising, however.

#### **Law on financial institutions**

Establishment of absolute prohibition on contributing with bank shares to the statutory capital of commercial companies. This was previously possible with the prior consent of the National Bank.

#### **Contravention code**

Certain fines have been increased, as follows:

- For conducting illegal commercial activity (e.g. without authorisation, licence or certificate);
- For receipt and payment of funds for employment without the transfer of social insurance contributions.

Certain provisions have been adjusted and introduced regarding administrative offences on the oil market.

New sections have also been introduced regarding:

- infringements of gambling legislation;

- infringements of rules on the operation of cash machines.

*[Source: Law no. 71 dated 12 April 2015 amending and supplementing certain legislative acts, Monitorul Oficial no. 102-104 (5144 - 5146) dated 28 April 2015]*

### ***The takeaway***

A number of important changes to the tax and customs legislation come into force on 1 May 2015, with some exceptions.

**Let's talk**

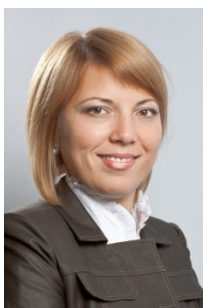
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