

Approval of tax and customs legislation amendments

18 July 2016

In brief

The Law providing significant amendments to the Republic of Moldova's fiscal and customs legislation has been published.

Taxes and duties

Corporate income tax

Deductions

The deduction of the following expenses has been extended:

- Expenses related to calculation of depreciation, maintenance and repair of cars used by individuals with leading positions in a company – for one car for each individual (provided that it is used for business purposes). The deduction of such expenses was previously limited to one car for each company subdivision;
- Expenses incurred for private scholarships (in line with rules established by the Government);
- The limit of expenses permissible for deduction, incurred by persons carrying out entrepreneurial activity for philanthropic and / or sponsorship purposes, has been increased (from 2% to 5%). This amendment also restricts the right of individuals that do not carry out entrepreneurial

activity to deduct such expenses.

Carry forward of fiscal losses

The term for fiscal losses carry forward has been extended from three to five years. In addition, the requirement for carrying forward fiscal losses in equal instalments has been removed.

Submission of income tax returns

New rules have been established regarding the obligation to submit income tax returns:

- Individuals carrying out professional activities have to submit their income tax return, regardless of whether they have a tax payment obligation;
- The rules have been amended regarding the submission of income tax returns by representative offices which obtain permanent establishment status.

Personal income tax

The thresholds for the application of the progressive personal income tax rates of 7% and 18%, as well as annual allowances provided for resident individuals, remained unchanged.

In addition, the tax regime applicable to income obtained by board members or members of the audit committee of companies has been clarified.

Withholding tax

An obligation has been introduced for companies undergoing liquidation or reorganisation during the fiscal year to present information regarding withholding tax within 15 days as of the date of approval of the liquidation balance sheet / repartition balance of the company.

Wealth tax

A wealth tax has been introduced.

Subjects of taxation

Subjects of taxation are individuals who own real estate of residential

destination in Moldova (except for land).

Object of taxation

Object of taxation is considered the real estate of residential destination that meets simultaneously the following conditions:

- The total estimated value is at least MDL 1.5 million;
- The total surface is equal to or greater than 120 square metres.

Taxable base

The taxable base of real estate is represented by its estimated value determined by territorial cadastral bodies (with some exceptions).

Tax rate

The tax rate is 0.8% of the taxable base.

Tax period

The tax period for the wealth tax is the calendar year.

Calculation and payment of tax

The wealth tax is payable by 25 December of the reporting year, based on the notification of payment presented by the territorial tax offices for the situation existing as at 1 November of the reporting year.

Local taxes

The definition and object of taxation have been amended, respectively, with regard to tax on advertising devices. Taxpayers have to pay the tax on advertising devices on the placing of outdoor advertising only through advertising devices.

Legal entities or individuals registered as entrepreneurs which / who have in their

possession / use or are owners of technical means for placing outdoor advertising become subject to taxation with tax on placement (location) advertising (publicity), regardless of from whom these technical means are received into possession / use.

The taxable base has been specified for the following taxes:

- Tax on commercial units and / or supply of services and tax on placement (location) advertising (publicity) by excluding the exception for public road areas and / or protection areas outside urban limits;
- market fee, by establishing the area subject to taxation.

Value Added Tax (VAT)

VAT rates

The VAT rate for transport and distribution of natural gases services was reduced from 20% to 8%.

In addition, the list of phytotechnical products in natural form for which the reduced VAT rate of 8% is applied has been extended.

The taxable value of the taxable supply

Specific provisions on determination of taxable value of taxable supplies have been introduced for agreements concluded in foreign currency with settlement in national currency, including those concluded between the residents of Republic of Moldova.

VAT refund

VAT refund will be performed only to taxpayers who obtain a VAT refund decision.

VAT refund performed as debt settlement to creditors of a taxpayer is forbidden.

The restriction against VAT refunds related to capital investments performed from funds obtained from the national public budget has been abolished.

The list of justifying documents for VAT refunds has been amended.

Deductibility of VAT

The right to deduct VAT has been introduced for:

- supplies of goods and services performed free of charge for marketing and / or sales promotion purposes, up to an annual amount of 0.2% of the income from sales obtained during the year previous to that in which the respective supplies are performed;
- transfers of property under company reorganisations.

The right to deduct VAT related to maintenance, operation and repair expenses has been extended – for a single car used by each individual specified under minor groups 112 and 121 in the Classification of occupations in Republic of Moldova.

VAT in the case of bad debts is to be adjusted, not deducted.

VAT exemption

The list of VAT exempted supplies of goods / services has been amended.

VAT administration

The term for VAT liability settlement for imported goods is considered to be the date the goods are declared to the customs office or the date the payment term of customs duties was prolonged. The VAT

payment date is considered to be the date the financial means are transferred to the customs authority pay desk in the Unique Treasury Account, as confirmed through a bank statement excerpt.

The requirement to issue VAT invoices in e-commerce has been abolished, with such invoices now being issued upon buyer's request.

The procedure has been specified for issuing a VAT invoice in the case of adjusting the taxable value of taxable supply of goods / services after supply or payment is performed. Specifically, a requirement has been introduced to register under general terms such VAT invoices in the General Electronic Register of fiscal invoices.

Excise duties

Excise duties are to be calculated and paid by the date the customs declaration is submitted, or, in the situation provided by article 124 para (1²) of the Customs Code, by the date to which the payment deadline is extended.

Excise duties refund

Excise duties refund will be performed only for taxpayers who obtain an excise duties refund decision.

Excise duties refunds performed as debt settlement to the creditors of a taxpayer are forbidden.

The restriction has been abolished regarding the right to obtain the refund of excise duties paid only for excisable goods processed and / or manufactured on the territory of Republic of Moldova which are then used for processing

and / or manufacturing other excisable goods. Upon the export of non-excisable goods, excise duties for own excisable raw materials used for manufacturing the non-excisable goods are not calculated nor paid.

The list of justifying documents for excise duties refund has been amended.

Excise duties rates

The excise duty rates have been increased for:

- Petroleum products, established in fixed amounts;
- Cigarettes with / without filters, established in fixed amounts (the ad valorem component of the excise duty has been reduced);
- Certain alcoholic drinks;
- Other excisable goods.

Tax administration

The Main State Tax Inspectorate ("MSTI") will issue the registration certificates for technical assistance centres for cash machines with fiscal memory.

At the request of individuals performing entrepreneurial activity, licensed or authorised professional activity, the tax authority has the right to assign them a tax code different from the personal tax code indicated in the licence or another document that allows the practice of the respective activity.

The payment of tax liabilities in cash and / or through cashless payment instruments will also be possible through payment service providers other than financial institutions.

New provisions have been included regarding tax liability settlement dates.

The rules on amending deadlines for tax liabilities payments, through postponement of payment or payment in instalments, have been modified.

The concept of voluntary tax compliance has been introduced.

As of 1 July 2016, subjects who have, according to the average number of employees recorded in the previous year, more than 10 people employed under individual employment agreements or other contracts have to submit their tax returns by using automated methods of electronic reporting.

Tax infringements by legal entities and individuals engaged in entrepreneurial activity will be deemed insignificant if the amount of tax does not exceed MDL 1,000.

Taxpayers registered by the entity empowered with the right of state registration (i.e. State Registration Chamber or Ministry of Justice) which cease their activity during the fiscal year are not required to submit the information about cessation to the tax authority.

The term used by the tax authority to examine a taxpayer's appeal must not exceed 30 calendar days from its receipt.

A tax inspection based on a decision to suspend the enforcement of a challenged

decision has to be initiated within 30 calendar days as of the date of adoption of the decision.

The requirement to certify computer information systems and software for cash machines has been repealed. As have the related fines.

Indirect methods of estimating the taxable income of individuals

Resident individuals Moldovan citizens who record a difference of more than MDL 300,000 between the estimated taxable income and the taxable income declared

are subject to indirect estimation methods.

The tax authorities decrease the estimated taxable income for individuals by MDL 500,000, except in cases where there is evidence confirming lending by them to other individuals.

Financial institutions have to submit to the MTA information on all active accounts during the fiscal year if the cumulative debit or credit turnover of such accounts exceeds MDL 300,000 during the fiscal year.

The fines imposed on financial institutions in relation to information to be presented on

all active accounts during the fiscal year are limited as follows:

- No more than MDL 25,000 for late submission of information;
- No more than MDL 50,000 for submitting false information;
- No more than MDL 150,000 for failure to submit information.

The period of 45 days for a preliminary tax inspection is suspended if additional documents, information, explanations and / or additional evidence is required from third parties.

Customs and other regulatory provisions

Law on payments for environmental pollution

The current mechanism of tax payments on imported goods which cause pollution when used applies until 31 December 2016. A new mechanism will be established for inspection and levies in Moldova for such payments.

The Customs Code

The Customs Code has been amended, as follows:

- Introduction of certain concepts regarding the inspection system applied by customs authorities (validating operations, physical inspection of goods, post-customs inspection / reverification citation, risk analysis, automatic validation of the customs declaration, etc.);
- Introduction of concept of simplified transit procedures, as well as of general conditions for

granting their authorisation;

- Amendments to the payment terms for import and export duties, including granting to authorised economic operators the right to pay the import duties within 30 calendar days as of submitting customs declarations, provided a guarantee is constituted in an amount equal to the import duties;
- The provision stating that import duties can be paid in instalments within the payment term has been abolished;
- The situations and procedure of refund of import / export duties extra levied are specified;
- Increased submission deadlines for customs declaration for international postal deliveries, from 72 hours to seven days as of crossing the customs border;
- Amendments to the procedure of authorising simplified customs procedures;
- Adjusting certain terms related to the procedure of granting authorised economic operator status, also through increasing the term for accepting an authorised economic operator status request from three to seven working days;
- Introduction of a new material liability customs infringement, namely for submitting the customs declaration or accompanying documents containing inaccurate / incomplete data on intellectual property objects; for this infringement fines, from 10% to 20% from goods value are applied;
- Amendments to the procedure of applying intellectual property protection measures.

TARIM

As of 1 January 2016, customs duty on certain goods which are generally used as raw materials in manufacturing will be reduced to 1%.

Law on customs tariffs

The most important amendments include:

- The validity of the bank security or customs broker security, set up to postpone the final determination of the customs value, is limited to at least 65 calendar days up to a maximum of 160 calendar days;
- Introduction of customs duty exemption on certain dialysers; on medicine raw materials, constituents, items, other medicinal products, according to lists to be approved by the Government;
- Introduction of customs duty exemption on certain electric generators, spare parts for gensets and apparatus for switching electrical circuits, according to the tariff positions expressly indicated;
- Prohibition of customs duty reimbursement to off-set debts owed to creditors by a customs payer, including to businesses and individuals which / who have been assigned the claims;
- Customs duty to be reimbursed within a period not exceeding 30 days.

Amended rules of origin

Preference to the import of goods originating from the Republic of Moldova is granted under the free trade agreements if reimbursement of customs duties was not granted for the non-originating materials used in the manufacturing of such products and if all customs duties and charges with equivalent effect applicable to such materials have been paid.

Upon export of goods (materials, accessories, packaging, etc.) where the term for payment of customs duty is extended under the legislation, but for which proof of origin is obtained, for the purpose of free trade agreements prohibiting tax reimbursement or exemption, such duty will be collected by the Customs Service based on a settlement decision.

The customs duty will not be reimbursed upon export of compensating products if proof of preferential origin is issued and is duly approved by the country of import.

Contravention code

Certain provisions on fines related to cash register operation rules have been adjusted.

Fines have been introduced for violation by taxpayers of the rules on filing tax return forms.

Insolvency Law

Insolvency courts are now required to return without examination the applications

on commencement of insolvency proceedings if the opinion issued by the State Tax Service on its notification by the creditor or debtor on their intention to submit the application has not been attached.

The law defines the content of the opinion issued by the State Tax Service.

The deadline for filing tax claims and their inclusion in the final table of claims has been increased from 45 to 90 calendar days as of the date of entry into insolvency proceedings.

Law on state inspection of entrepreneurial activity

It has been clarified that Law no. 131 dated 8 June 2012 on state inspection of entrepreneurial activity does not apply to inspections by tax, customs and financial (banking and non-banking) bodies.

[Source: Law no. 138 dated 26 June 2016 amending and supplementing certain acts, Official Gazette no. 184-192 (5617-5625) from July 1, 2016].

The takeaway

Significant amendments to the tax and customs legislation entered into force on 1 July 2016, except as mentioned above.

Let's talk

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



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