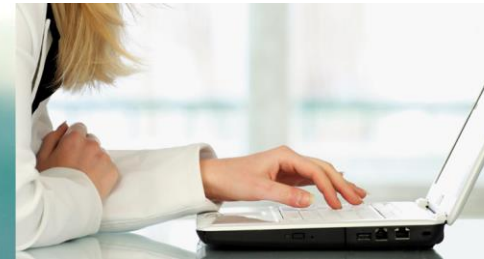


Romania



**A summary of recent legislative amendments approved by the Romanian authorities is provided below**

- 1. **Cancellation of interest and late payment penalties for overdue tax liabilities .....page 1**
- 2. **Amendments introduced by the new Fiscal Code .....page 3**
- 3. **Amendment to the Law on the processing of personal data and privacy in the field of electronic communications..... page 4**

**1. Cancellation of interest and late payment penalties for overdue tax liabilities**

According to a newly enacted Government Emergency Ordinance which was published in the Official Gazette of Romania on 21 October 2015, late payment penalties and 54.2% of the interest related to principal tax liabilities overdue as at 30 September 2015 will be cancelled if certain conditions are met.

**1.1. Tax liabilities overdue before or as at 30 September 2015**

For tax liabilities overdue before or as at 30 September 2015, the granting of the aforementioned tax incentive presupposes fulfilment of the following conditions:

- a) The principal tax liabilities outstanding as at 30 September 2015 are settled by latest 31 March 2016
- b) An amount of 45.8% of the related interest – as established through tax assessment decisions communicated to the taxpayer prior to settlement of the principal tax liabilities – is settled by 30 June 2016
- c) An amount of 45.8% of the related interest – as established through tax assessment decisions communicated to the taxpayer after settlement of the principal tax liabilities – is settled within the legal deadline (i.e. by the 5<sup>th</sup> or 15<sup>th</sup> day of the following month, depending on the date on which the tax assessment decision was communicated to the taxpayer)
- d) Principal tax liabilities due between 1 October 2015 and 31 March 2016 are settled by the date on which the taxpayer in question applies for cancellation of the late payment penalties and 54.2% of the related interest
- e) The taxpayer has submitted all the tax returns required by law prior to applying for these incentives
- f) Applications for cancellation of the ancillary tax liabilities are submitted by 30 June 2016

## **1.2. Tax liabilities declared through rectifying statements**

In the case of rectifying statements submitted by taxpayers in respect of tax liabilities overdue before or as at 30 September 2015, the incentives mentioned above will be granted if the following conditions are met cumulatively:

- The rectifying tax returns are submitted by 31 March 2016
- The tax liabilities declared in the rectifying tax returns are settled by 31 March 2016
- Conditions (b)-(f) mentioned above are met

## **1.3. Tax liabilities overdue before or as at 30 September 2015 and settled prior to this date**

In the case of principal tax liabilities overdue before or as at 30 September 2015 and settled prior to this date but for which the late payment penalties and 54.2% of the related interest were not settled by 30 September 2015, the cancellation of the ancillary tax liabilities is granted provided the following conditions are met:

- An amount of 45.8% of the related interest is settled by 31 March 2016
- The application for cancellation of the ancillary tax liabilities is submitted by 30 June 2016

## **1.4. Tax liabilities established through tax assessment decisions as a result of a tax audit**

In the case of principal tax liabilities overdue before or as at 30 September 2015, which are established through tax assessment decisions issued as a result of a tax audit that is ongoing as at 21 October 2015, the related late payment penalties and the amount of 54.2% of the related interest will be cancelled if the following conditions are met:

- The principal tax liabilities established through these tax assessment decisions are settled within the legal deadline (i.e. by the 5<sup>th</sup> or 15<sup>th</sup> day of the following month, depending on the date on which the tax assessment decision was communicated to the taxpayer)
- The amount of 45.8% of the interest related to these liabilities is settled within the legal deadline (i.e. by the 5<sup>th</sup> or 15<sup>th</sup> day of the following month, depending on the date on which the tax assessment decision was communicated to the taxpayer)
- The application for cancellation of the ancillary tax liabilities is submitted within 90 days of communication of the tax assessment decision

## **1.5. Liabilities owed to local budgets and overdue as at 30 September 2015**

Local councils may decide to apply the provisions of this Government Emergency Ordinance to the late payment penalties for liabilities owed to local budgets. Any local councils that choose to do so must also approve the procedure for the cancellation of these tax liabilities.

The amount of late payment penalties that may be subject to cancellation is established by each local council that decides to implement the aforementioned provisions at local level, but cannot exceed 73.3%.

With regard to the tax incentives mentioned above in points 1.1-1.4, this new legislative provision also stipulates the possibility of taxpayers to notify the tax authorities of their intention to take advantage of the cancellation of the ancillary tax liabilities. Notification of the tax authorities to this end will have the following outcomes:

- The payment of the late payment penalties and 54.2% of the related interest is deferred (with a view to cancellation)
- The enforced collection of the tax liabilities for which payment was deferred is either not initiated or is suspended
- The tax liabilities for which payment was deferred are not settled until the application for cancellation of the ancillary liabilities is processed or until 30 June 2016, if the application is not submitted by this date

**Note:** Under certain conditions, the benefits provided for in this Government Emergency Ordinance may also be granted for the following tax liabilities: (i) liabilities for which payment incentives have been granted, (ii) liabilities which are established through administrative acts for which execution has been suspended or (iii) liabilities whose payment has been rescheduled.

Additional details regarding implementation of the aforementioned provisions are to be provided via application norms that are to be published in the Official Gazette of Romania within 30 days of entry into force of this Ordinance.

*Source: Emergency Ordinance no. 44/2015 regarding certain fiscal incentives, which was published in the Official Gazette of Romania no. 785 and which entered into force on 21.10.2015*

## 2. Amendments to the New Fiscal Code

On 3 November 2015, a new Government Emergency Ordinance introducing amendments to the New Fiscal Code (Law no. 227/2015) has been published in the Official Gazette of Romania.

The most significant changes being introduced to the New Fiscal Code are as follows:

- The reduction in the rate of withholding tax rate on dividends from 16% to 5% is now to come into effect one year earlier than previously announced (i.e. as of 1 January 2016) for the following taxpayers:
  - Companies that do not fulfil the minimum shareholding conditions (i.e. minimum 10% of the shares held for an uninterrupted period of at least one year)
  - Individuals deriving income from dividends
- The maximum annual turnover permitted for a company to be classified as a microenterprise is to be increased from EUR 60,000 to EUR 100,000. In addition, a different taxation system is to be introduced for microenterprises under which the rate of income tax will vary from 1% to 3%, depending on the number of employees. The current rate of income tax for microenterprises is a fixed 3% (with certain exceptions)

- The reduction to 9% of the VAT rate for the supply of water used for consumption and for agricultural irrigation (down from the standard rate of VAT of 20% that comes into effect on 1 January 2016)

*Source: Emergency Ordinance no. 50/2015 amending and supplementing Law no. 227 / 2015 regarding the Fiscal Code and Law no. 207 / 2015 regarding the Fiscal Procedure Code, which was published in the Official Gazette of Romania no. 817 and which will enter into force as at 1 January 2016*

### **3. Amendment to the Law on the processing of personal data and privacy in the field of electronic communications**

Law no. 235/2015, which amends Law no. 506/2004 on the processing of personal data and privacy in the field of electronic communications, was published in the Official Gazette of Romania on 14 October 2015.

Under the new law, traffic data on subscribers and users, processed and held by the provider of a public electronic communications network or public electronic communications service, must be either:

- deleted
- or anonymised after they are no longer necessary for the purposes of correspondence and within a maximum of three years from the date of the last correspondence.

A new article has also been introduced relating to the authorities' access to data, according to which providers of electronic communications services and providers of public electronic communications networks are obliged to submit to the authorities, within a maximum of 48 hours of receiving a request, the following user-related information:

- traffic data,
- equipment identification data
- location data

Another important aspect of the new law is that the above data, shall not be subject to deletion or anonymization, if a request is made by the authorities for the data to be retained for the following purposes

- identifying and preserving evidence; or
- combating crimes relating to national security

However, these data may be deleted or anonymised after a period of 5 years has passed since the request for data was made, or, where applicable, pending a final judgment from the courts.

*Source: Law no. 235/2015, published in the Official Gazette, Part I, nr. 767, on 14 October 2015.*

**This newsletter is a service of TPA Horwath.**

**Your TPA Horwath Team**

**Contact:**

**TPA Horwath Romania**

Str. Grigore Cobălcescu 46, 010196 Bucharest

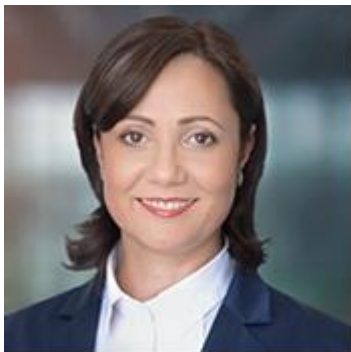
Tel.: +40 21 310 06-69

Fax: +40 21 310 06-68

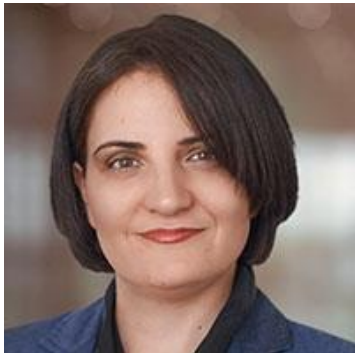
[www.tpa-horwath.ro](http://www.tpa-horwath.ro)

[www.tpa-horwath.com](http://www.tpa-horwath.com)

To receive regular information please sign up for our [newsletter](#).



**Claudia Stanciu (Partner)** [claudia.stanciu@tpa-horwath.ro](mailto:claudia.stanciu@tpa-horwath.ro)



**Cristina Gheorghita (Partner)** [cristina.gheorghita@tpa-horwath.ro](mailto:cristina.gheorghita@tpa-horwath.ro)

**IMPRINT** Information update: End of October 2015, All rights reserved This information is simplified and cannot substitute for an individual advice. Responsible for the content: Claudia Stanciu, Tax Partner and Cristina Gheorghita, Legal Partner,, TPA Horwath, Str. Grigore Cobălcescu 46, 010196 Bucharest , Romania, Member of Crowe Horwath International (Zürich) – an association of separate and independent chartered accountants and consultants. Tel.: +40 21 3100669. Homepage: [www.tpa-horwath.ro](http://www.tpa-horwath.ro); Conception and design: TPA Horwath

**Copyright © 2015 TPA Horwath, Str. Grigore Cobălcescu 46, 010196 Bucharest, Romania**

**All rights reserved.**