

# Tax & Legal Alert

**No. 49**  
**December 9, 2008**

## CONTENT:

**EMERGENCY ORDINANCE NO. 200/2008 AMENDING LAW NO. 571/2003 REGARDING THE FISCAL CODE**

**OFFICIAL GAZETTE NO. 815 FROM DECEMBER 4, 2008**

## AMENDMENTS TO THE FISCAL CODE

The amendments to the Fiscal Code brought by the Emergency Ordinance No.200/2008 (the“Ordinance”) were made with the view to harmonising certain fiscal legislative provisions with the *acquis communautaire*, as well as to prevent the propagation of the effects of the international economic crisis in Romania.

The main amendments are outlined below by reference to the taxes and duties as provided in the Fiscal Code.

### CORPORATE INCOME TAX

#### *Research and development activities*

For the purpose of computing corporate income tax, an additional deduction of 20% is allowed for expenses related to research and development activities. The accelerated depreciation method is also applicable for equipment used in research and development activities.

The fiscal incentives for research and development activities presented above are granted under a state aid scheme for research and development to be issued by the Ministry of Education and Research.

### INCOME TAX

Income obtained in the first five years from the application of a patent registered in Romania is deemed to be taxable income.

Interest income derived by individuals as from January 1<sup>st</sup>, 2009 from term deposits and/or other saving instruments is deemed to be non-taxable income.

### WITHHOLDING TAX

Starting from January 1<sup>st</sup>, 2009, interest income derived by individuals, resident in non-EU member states, from term deposits and/or other saving instruments, will be exempt from withholding tax in Romania.

#### *Reinvested dividends*

Starting from year 2009, dividends distributed and reinvested in the distributing company's own activity, as well as dividends reinvested in the share capital of another Romanian legal entity, for the purpose of securing and creating new jobs, are exempted from tax on dividends.

The application procedures for the above provisions are to be approved under an Order of National Agency for Fiscal Administration.

### VAT AND EXCISE DUTIES

The present Emergency Ordinance introduces a new reduced VAT rate of 5% and regulates certain aspects with respect to the introduction of the single authorisation for simplified customs procedure granted by another Member State.



### *The introduction of the reduced VAT rate of 5%*

Apart from the VAT rates of 19% and 9%, the Ordinance introduces another reduced VAT rate of 5%. As such, the reduced rate of 5% applies to the taxable base computed for the supply of buildings as part of the social policy, including the land on which they are built. The land on which the construction is built includes also the construction's land print.

In this respect, *the building supplied as part of the social policy shall mean:*

- a) The supply of buildings intended to be used as old people's homes, foster home and centres for recovery and rehabilitation of disabled children;
- b) The supply of buildings to city halls with the purpose of subsidised renting-out to certain persons or families whose economic situation does not allow buying or renting a home under market conditions;
- c) The supply of buildings with a maximum utilisable space of 120 m<sup>2</sup>, excluding building annexes, whose value, including the value of the land on which they are built, does not exceed RON 380,000 (excluding VAT) acquired by any unmarried person or family. In addition, the reduced VAT rate shall apply only to buildings that are habitable at the time of the sale, and where the land on which they are built does not exceed 250 m<sup>2</sup> (including the land print of the building, in case of individual houses). Any unmarried person or family can benefit from the reduced VAT rate of 5% only one time when buying a building.

### *Instructions regarding importers holding a single authorisation for simplified customs procedure granted by another Member State*

The economic operators from the Community holding a single authorisation for simplified customs procedure granted by another Member State and allowing them to declare in only one state, respectively the state that granted the authorisation, have certain declarative and payment liabilities of VAT and excises in Romania with respect to import of goods into Romania.

In this respect, those importers holding the single authorisation for customs simplified procedure issued by another Member State shall also file an import declaration for VAT and excises. Furthermore, this declaration should be submitted with the customs authorities at the moment when the tax becomes due and the VAT shall be paid by the time the liability to submit the import declaration for VAT and excises arises.

The movement of excisable products, released for free circulation by an importer who has been granted a single authorisation for simplified customs procedure issued by another Member State and the goods are released for consumption in Romania, may be performed under the suspensive regime provided that certain specific criteria are met.

The excise duty shall become due when the import declaration for VAT and excises is registered with the authorities.

*The provisions of the Emergency Ordinance take effect starting January 1<sup>st</sup>, 2009, except for the provisions concerning the reduced VAT rate of 5%, which takes effect starting December 15<sup>th</sup>, 2008.*

For further information please contact us at: [Romania@deloittece.com](mailto:Romania@deloittece.com)  
or visit the web page [www.deloitte.com/ro/tax-and-legal-alerts](http://www.deloitte.com/ro/tax-and-legal-alerts)

### CONTACTS

This Alert is provided as a guide only and should not be construed as advice. Professional tax advice should be sought before acting upon any of the points raised in this Alert.

The Alert is sent to our clients electronically or by mail. If you want to be included in the distribution list please contact:

Everard van Steenderen - Partner  
Rodica Segarceanu - Partner  
Mihaela Pohaci – Director  
Alexandru Reff – Attorney-at-Law, Partner

These materials and the information contained herein are provided by Deloitte Touche Tohmatsu and are intended to provide general information on a particular subject or subjects and are not an exhaustive treatment of such subject(s).

Accordingly, the information in these materials is not intended to constitute accounting, tax, legal, investment, consulting, or other professional advice or services. The information is not intended to be relied upon as the sole basis for any decision which may affect you or your business. Before making any decision or taking any action that might affect your personal finances or business, you should consult a qualified professional adviser.

These materials and the information contained therein are provided as is, and Deloitte Touche Tohmatsu makes no express or implied representations or warranties regarding these materials or the information contained therein.

Without limiting the foregoing, Deloitte Touche Tohmatsu does not warrant that the materials or information contained therein will be error-free or will meet any particular criteria of performance or quality. Deloitte Touche Tohmatsu expressly disclaims all implied warranties, including, without limitation, warranties of merchantability, title, fitness for a particular purpose, noninfringement, compatibility, security, and accuracy.

Your use of these materials and information contained therein is at your own risk, and you assume full responsibility and risk of loss resulting from the use thereof. Deloitte Touche Tohmatsu will not be liable for any special, indirect, incidental, consequential, or punitive damages or any other damages whatsoever, whether in an action of contract, statute, tort (including, without limitation, negligence), or otherwise, relating to the use of these materials or the information contained therein.

If any of the foregoing is not fully enforceable for any reason, the remainder shall nonetheless continue to apply.

© 2008 Deloitte Tax S.R.L. All rights reserved.

Deloitte refers to one or more of Deloitte Touche Tohmatsu, a Swiss Verein, and its network of member firms, each of which is a legally separate and independent entity. Please see [www.deloitte.com/about](http://www.deloitte.com/about) for a detailed description of the legal structure of Deloitte Touche Tohmatsu and its member firms. Please see [www.deloitte.com/ro/about](http://www.deloitte.com/ro/about) for a detailed description of the legal structure of Deloitte Romania.