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**Government Decision no. 791/2010 regarding the amendments of the Norms for the application of the Fiscal Code and approval of Norms for the application of article III of Emergency Ordinance no. 58/2010 regarding the amendment of the Fiscal Code and other financial and tax measures<sup>i</sup>**

➤ **Amendment of the Norms to the Fiscal Code**

**General provisions**

Independent activities can be re-qualified as dependent if the legal relationship based on which that activity takes place does not reflect its economic substance.

Liberal professions, as well as copyrights and related rights defined in accordance with Law no. 8/1996 on copyrights and related rights cannot be reassessed and deemed as dependent activities, if performed independently.

**Corporate income tax**

Expenses incurred for services aimed at increasing the efficiency, optimising and restructuring the activity of the taxpayer from an operational and/or financial perspective are deductible for corporate income tax purposes.

Expenses representing losses to the value of the shares caused by the decrease of the share capital value or by valuations performed as per the accounting norms are considered as non-deductible for corporate income tax purposes.

Other amendments and clarifications have been introduced concerning taxpayers exempt from the minimum

tax (e.g. taxpayers which are temporarily inactive) and the method for the avoidance of double taxation in case Treaty benefits are claimed (exemption or credit).

**Personal income tax**

Activities carried out independently, as part of a regulated profession, are deemed to generate income from independent activities even in cases when they are rendered based on a contract towards other entities, which also obtain income from regulated professions.

Income derived from private pension schemes is considered as income from pensions. For single payments, a single non-taxable threshold of RON 1,000 is established per each pension fund.

For the purpose of determining the rent income, the termination of rent contracts throughout the year should be notified to the tax authorities in writing within 5 days from the termination date.

**Tax on income obtained from Romania by non residents and tax on the representative offices of foreign companies in Romania**

Guidelines are provided with respect to the procedure for declaring the capital gains obtained by non-residents in various scenarios, as well as the entities to whom the tax residency certificates should be provided.

**Local taxes**

Further to the increase in local taxes on buildings, clarifications are brought regarding the computation method for 2010, respectively 2011, taking also into account the number of buildings held by private individuals.

➤ **Norms for the application of article III on taxation of professional income from the Emergency Ordinance no. 58/2010**

**Definition of “professional income”**

Professional income is to be understood as income obtained by a private individual from any activity other than dependent activities, Also, the following types of income are not included: rent income, investments, pensions, income from agricultural activities, prizes and gambling, sale of real-estate and income from other sources (as defined by article 78 paragraph 1, letters a)-d) and paragraph 2 of the Fiscal Code).

Individuals who obtain professional income, irrespective of its recurrent or occasional basis, owe individual social security contributions, unemployment insurance contributions and also health insurance contributions (**individual social contributions**).

No individual social contributions are due for occasional professional income, if combined with a salary income.

**Taxable base**

For professional income obtained on a recurrent basis, the tax base for the individual social contributions is the monthly net income, but not more than five times the average gross salary established at the level of the economy. In case of occasional income, the tax base is the annual net income, but not more than five times the average gross salary.

The tax base for health insurance contributions is calculated as the difference between the net income and the related deductible expenses, limited to five average gross salaries per economy, but not less than a national minimum gross salary.

**Reporting and payment obligations**

Individuals who obtain professional income are liable to submit returns for the social security, health insurance and unemployment contribution due.

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