

THE GOVERNMENT ADOPTED ADDITIONAL MEASURES FOR THE IMPLEMENTATION OF THE LATEST AMENDMENTS OF THE FISCAL CODE RELATED TO SALARY TAX AND SOCIAL CONTRIBUTIONS

The Government adopted the Emergency Ordinance no. 82/2017 ("GEO 82") concerning among others, provisions on the initiation of collective negotiations in view of implementing the latest amendments to the Fiscal Code adopted through Government Emergency Ordinance no. 79/2017 ("GEO 79").

The latest amendments to the Fiscal Code related to salary tax and social contributions

The main changes brought by GEO 79 include those regarding the salary tax and social security contributions owed for salary income and other similar income, as follows:

- salary tax reduction from 16% to 10%;
- reduction of the number of social security contributions and their overall transfer on to the employee, representing an increase of the level of these contributions compared to the current situation when social security contributions for salary income is divided between the employee and the employer;
- introduction of the insurance contribution for labour (Romanian: *contributie asiguratorie pentru munca*) of 2.25%, owed by the employer for the salary paid to the employee;
- increase of the gross salary level for which personal deductions are granted.

As a result of the implementation of these measures, the net salary of the employees may be reduced, unless the employers decide to increase the gross amount to maintain the existing net salary.

It is worth mentioning that, in aggregate the cost of social security contributions does not increase as a result of these changes, but a redistribution is made, the burden of such costs being mainly transferred to the employee. Retaining, transferring and declaring social security contributions will continue to be the responsibility of the employer.

All employers are imposed to initiate collective negotiation during 20 November – 20 December 2017 for the application of the latest amendments to the Fiscal Code in order either to conclude a collective labor agreement ("CLA") or to amend the existing ones. GEO 82 has been published in the Official Gazette no. 902 dated 16 November 2017.

GEO 79 comes into force as of the publication date in the Official Gazette (i.e., 10 November 2017), but starts producing legal effects as of 1 January 2018. According to the information available on the Senate's official webpage, GEO 79 was submitted to the Parliament in order to be discussed as a matter of urgency.

Obligation to initiate collective negotiation

By means of GEO 82, the Government appears to transfer the responsibility to unions and employers in order to find solutions for maintaining the employees' net income following the above mentioned redistribution.

For companies where there is no CLA concluded, the initiation of collective negotiation for the conclusion of such CLA is mandatory (irrespective of the total number of employees).

In the case of existing CLAs, GEO 82 stipulates the mandatory amendment thereof in view of implementation of the latest amendments to the Fiscal Code. In such situation, time limits provided under the Law no. 62/2011 regarding social dialogue are no longer applicable (i.e., the obligation to initiate the negotiations with 45 days prior to expiry of the CLA or the time limit of 60 days in which negotiations are held unless parties agree otherwise).

Increased negotiating role of federations

According to the provisions of GEO 82, the right of the federations to negotiate in units where the trade union is not representative or in which there is no trade union in place is increased.

For companies where there is no representative union affiliated to a representative federation for the relevant business sector, representatives of the trade union federation, based on the union mandate, together with employees' representatives may participate in the negotiation of CLAs or the addenda thereto, as applicable.

In units where there is no trade union, employees' representatives together with a representative of the relevant federation at national level, upon the invitation of employees' representatives, may participate in the negotiation of CLAs or the addenda thereto, as applicable.

Entry into force and legislative procedure

We note that, in terms of legislative technique, GEO 82 enters into force as of the publication date in the Official Gazette (i.e., 16 November 2017). According to public information available, GEO 82 was already submitted to the Senate in order to be discussed as a matter of urgency. However, pending approval or rejection in the Parliament, GEO 82 will be biding and will produce legal effects.

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