

TAX ON INCOMES OF MICRO-ENTERPRISES

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Abstract:

This paper presents the economic and fiscal effects of the reintroduction of the tax on incomes of micro-enterprises, within the Romanian taxation landscape. It examines the changing effects of the definition of micro-enterprises and the inclusion, within this category, of companies, on enterprise fiscality and the Romanian economy.

Keywords: *Tax on incomes of micro-enterprises, Romanian taxation, Micro-enterprise fiscality*

JEL classification: *H25, H71*

Until late last year, in Romania, micro-enterprises have benefited from an alternative tax scheme that allowed them to elect between paying the profit tax and a 3% tax on incomes, depending on the fulfillment of old legal terms defining the micro-enterprise.

The new legislative changes at the beginning of the year (Government Ordinance no.8/2013) grant the tax on incomes of micro-enterprises, starting with February 1st, 2013, a mandatory character.

By making the tax on incomes of micro-enterprises mandatory, the authorities aim to supplement the amounts to be collected from the state budget. Perhaps, the government considered the possibility that "all" micro-enterprises being taxed by applying the 16% tax rate on profit to record losses, and the state not to collect any money. This way, by including in the category of taxable taxpayers and those with losses (if the profit tax is due), an increase of budget incomes of about 457 million lei is expected.

The fundamental change of this law is to reconsider the concept of micro-enterprise and the confirmation of this tax as a mandatory tax.

Definition of micro-enterprises as of 2013

For purposes of this title, a micro-enterprise is a Romanian legal person that cumulatively satisfies the following conditions on December 31st of the preceding fiscal year:

- obtain incomes other than those from consulting services and management;
- obtained incomes that have not exceeded the equivalent in lei of 65,000 Euros;
- the social capital of the legal person is owned by persons other than the state, local authorities and public institutions.

From the standard definition, the requirement on the number of employees has been eliminated (which, until last year, it required the existence of 1-9 employees in micro-enterprises).

According to the new definition, all newly established companies are micro-enterprises, which are always due, in the first year of activity, the tax on incomes of micro-enterprises. Newly established companies will keep this tax regime for years, if they remain under the threshold of 65,000 Euros. The termination of the application of

this tax occurs in one case: by exceeding the turnover threshold of 65,000 Euros. A micro-enterprise, which has higher incomes, will pay the profit tax by taking into account the incomes and expenses from the beginning of the fiscal year.

The rate of the tax on incomes of micro-enterprises remains 3% of the incomes.

Taxable base

The taxable base of the tax on incomes of micro-enterprises is incomes from any source, from which are subtracted:

- incomes from variation of inventory;
- incomes from the production of tangible and intangible assets;
- incomes from operations representing the share-part of government subsidies and other resources for the financing of investments;
- incomes from provisions;
- incomes arising from cancellation of debts and penalties due to the state budget not representing deductible expenses when computing the taxable profit, according to legal regulations;
- incomes from indemnifications granted by the insurance companies for the damages caused to own tangible assets.

The computation and payment of tax on incomes of micro-enterprises are made quarterly. When switching to the profit tax, the computation and payment of the profit tax are made from the quarter in which incomes have exceeded the limit of 65,000 Euros.

Fiscal effects of new legislative changes

The mandatory transition of companies that meet the new conditions in the micro-enterprise category, aimed at reducing tax evasion, is problematic, because it occurs during the fiscal year, which disrupts (corrupts) business plans of small businesses in 2013. Even if the new taxation system has benefits for taxpayers, the disadvantages it entails are considerably higher.

Advantages. Companies required to pass to the new taxation system would benefit on income tax calculation, which involves a reduced workload as opposed to calculating the profit tax, they no longer having to keep track of complicated tax records and construe the deductibility of certain expenses.

This measure comes to the advantage of companies with large margins of profitability, such as service companies, IT and commerce, having incomes exceeding 65,000 Euros. They will pay less tax and also will not have to devote so many resources to determine the tax payable (prepare tax records, analyze incomes and expenses, etc). In addition, the tax being easier to compute, the risk of interest and penalties that may arise during tax inspections is diminished.

For example, a company with activities in designing, which recorded these annual accounting data, recording a profit margin of about 20%, is clearly advantageous, being expected to pay 1,000 lei less tax, as shown in Table no. 1.

Table no.1 -lei-

Total income	Annual result	Profit tax	Income tax
91.986	+19.019	3.640	2.760

However, the **disadvantages** of the new taxation system are not negligible, considering that, with the new form of taxation, many companies will have a higher tax burden than before February 1st.

Regarding the newly established companies and companies with a low profit, the system has the effect of imposing significant increases, behaving like a flat tax. Small production companies that made relatively low profits will be due an increased tax.

In what regards extensive start-ups of companies, with a view of incomes higher than 65,000 Euros, they will have an additional concern, in terms of monitoring the time

of exceeding the threshold and changing the tax due, which may occur in the first year of activity.

Let's have a look at a stock company, with retail activities; it is clear that from the first quarter the profit tax will be due, for exceeding the threshold specified by the law. The company will have to declare the change of tax due. It is important to observe that the legislature does not provide a time limit in doing so, providing that the tax declarations will be submitted during the year. In this hypothesis, the mandatory aspect of the tax on incomes of micro-enterprises is outdated, the fiscal period, the quarter being entirely governed by the profit tax.

Also, companies with a turnover of less than 65,000 Euros and which, usually, have a lower taxable profit margin of 18% will suffer financially from the new taxation system, because they will pay a higher tax than in the case in which it would have been paying the profit tax, when they would have had the chance to recover losses from previous years, as shown in Table no. 2.

In this category, we can include trade companies, such as convenience stores, especially companies that make transactions in foreign currency, which due to the exchange rate instability, can get into the position of paying an income tax on unfulfilled exchange differences, without the possibility to deduct expenses and rate differences.

Table no. 2 -lei-

Total income	Annual result	Profit tax	Income tax
35.096	8.174 -6.907 (previous loss) =1.269	203	1.053

The most disadvantaged will be the companies under loss, but with incomes below the limit of 65,000 Euros, and the start-up companies, which will pay the 3% income tax, from the first year of activity. This tax, of up to 1,950 Euros, can never be recovered by these companies. In addition, an unresolved issue by the new mechanism is the recovery of tax loss. Newly established companies, which do not make profit in the first year, but make incomes below the limit of 65,000 Euros, will not be able to recover the tax loss for that year, which would create a disadvantage and discrimination of newly established taxpayers as opposed to other taxpayers established before that could benefit from this mechanism to calculate the profit tax.

Table no. 3 -lei-

Total income	Annual result	Profit tax	Income tax
88.382	- 2.933	0	2.651

The new regulations might produce more harm, economically speaking, due to increased tax burden for a fairly large number of micro-enterprises, which could reach back to the edge of bankruptcy, due to the inability to pay the taxes due.

Micro-enterprises no longer benefit from any tax breaks, not even for the recovery of possible tax losses recorded, especially those in their early stages. Again, the sudden change of the fiscal framework in Romania (after almost a month since the start of the year), without complying with the application rules of the fiscal code and without any other motivations than excessive deficit, makes out the Romanian economy an unattractive and risky environment for small investors. While other countries are trying to revive the economy through small and medium enterprises, fiscal measures in our country continue to contravene taxation definitions that stipulate: reducing fluctuations and economic instability and ensuring primary distribution of incomes in order to boost economic activities, investments and consumption.

REFERENCES

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