

LEGISLATIVE INFO

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Important fiscal amendments in force starting with January 1, 2021

I. Fiscal amendments on non-deductible expenses in trade relations with contractual partners located in several countries.

Law no. 296/2020¹ made a series of amendments regarding the provisions of the Fiscal Code.

Article I, point 10² of the above mentioned Law introduces a new category of expense which is not considered a deductible expense when calculating the profit tax, together with the other expenses provided in article 25 of the Fiscal Code.

Thus, the new regulation therefore provides that, in the case of the calculation of profit tax, expenses incurred as a result of transactions with a person located in a State which, **at the date of recording the expenses**, is included in *Annex I* and / or *Annex II* of the List EU non-cooperative jurisdictions for tax purposes, published in the Official Journal of the European Union, are considered non-deductible expenses.

According to article VII par. (1) letter a)³ of Law no. 296/2020, this provision shall apply from 1 January 2021.

¹ Law no. 296/2020 for the amendment and completion of Law no. 227/2015 on the Fiscal Code, published in the Official Gazette, Part I no. 1269 of December 21, 2020, in force since December 24, 2020.

² 10. In Article 25 (4), after point (f), a new point (f1) is inserted, with the following wording: " f1) expenditure incurred as a result of transactions with a person located in a State which, at the date of recording the expenditure, is included in Annex I and / or Annex II of the EU List of non-cooperating tax jurisdictions, published in the Official Journal of the European Union".

³ Article VII. - (1) By derogation from the provisions of art. 4 of Law no. 227/2015 on the Fiscal Code, with subsequent amendments and completions, as well as with amendments and completions brought by this law: a) the provisions of art. I point [...] 10 [...] shall enter into force on 1 January 2021;

It is important to emphasize the condition in which this expense is considered non-deductible, namely **when the contractual partner is located in one of the countries mentioned in the two annexes, but at the time of recording the expenses.**

With regard to the countries included in these annexes, we specify that **Annex I** contains the EU list of *non-cooperating jurisdictions for tax purposes*. This list includes the following states: *American Samoa, Anguilla, Barbados, Fiji, Guam, Palau, Panama, Samoa, Seychelles, Trinidad and Tobago, US Virgin Islands and Vanuatu.*

Annex 2 contains the current state of cooperation with the EU regarding the commitments made by several countries in order to implement the principles of good fiscal governance. The following states are included in this annex: *Turkey, Maldives, Jordan, Namibia, Thailand, Saint Lucia, Australia, Morocco and Eswatini.*

In conclusion, if the professionals subject to the tax legislation applicable in Romania carry out trade activities with contractual partners who are located in one of the states mentioned in Annex 1 and Annex 2 above, it should be emphasized that the expenses incurred as a result of transactions with such contractual partners will no longer be considered, starting with January 1, 2021, deductible expenses for the calculation of the profit tax.

II. New rules for trade with the United Kingdom applicable from January 2021

For customs purposes, the United Kingdom is treated like any other non-EU country starting 1 January 2021. Specifically, trade between the United Kingdom and the EU is currently subject to customs procedures and formalities.

After the end of the transitional period, EU rules on cross-border deliveries between Member States will no longer apply in relations between Member States and the United Kingdom. Instead, after the end of the transition period, supplies of goods between the EU and the United Kingdom will be subject to VAT rules applied to imports and exports. As such, goods brought into or out of EU VAT territory in the United Kingdom for dispatch to the United Kingdom will be subject to customs supervision and may be subject to customs controls.

Brexit affects companies registered and operating according to the laws of Romania in case of: selling goods or providing services to the United Kingdom or buying products or receiving services from the UK or transiting goods within the United Kingdom or using UK materials and products to trade under preferential tariff regimes to EU partner countries.

Thus, customs declarations will have to be lodged in the case of the import or export of any product to / from the United Kingdom or in the case of transit of goods through the territory of the United Kingdom.

Traders will pay VAT in the EU country where the products imported from the United Kingdom are put into consumption. Traders will be exempted from paying VAT in the EU for products they export to the United Kingdom, but will subsequently have to comply with UK rules on VAT on imports.

After the end of the transitional period, all EU VAT rules on operations with goods (supplies of goods, intra-Community acquisitions of goods and exports / imports of goods) **will continue to apply in Northern Ireland** as well when it would be an EU member state.

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