



Stimati colaboratori,

1) Va supunem atentiei pozitia Ministerului Finantelor Publice si ANAF privitor la regimul fiscal al tichetelor cadou.

Pana in prezent, acordarea tichetelor cadou de catre operatorii economici catre persoane fizice, in afara unei relatii care genereaza venituri din salarii, a fost considerata ca fiind o relatie care da nastere la venituri din alte surse la nivelul persoanei fizice.

In acest caz, veniturile respective fac obiectul impozitului cu retinere la sursa, in cota de 10%, conform art. 132, alin. (1) si (2) din Legea 227/2015, iar operatorii economici platitori ai acestor venituri au obligativitatea declararii atat a impozitului retinut la sursa (Declaratia 100 privind obligatiile de plata la bugetul de stat) respectiv a veniturilor obtinute cat si a impozitului datorat pe fiecare beneficiar in parte (Declaratia 205 informativa privind impozitul retinut la sursa).

Pentru veniturile din alte surse nu se datoreaza CAS – contributia de asigurari sociale, iar in situatia in care valoarea cumulata a veniturilor realizate de persoana fizica este mai mare sau egala cu 12 salarii minime brute pe tara, persoana fizica datoreaza si CASS – contributia de asigurari sociale de sanatate in cota de 10%. Persoana fizica avand obligatia depunerii Declaratiei unice.

Acest tratament fiscal se regaseste si in adresa emisa de ANAF (Anexa 1).

2) Totusi, din adresa interna emisa de Ministerul Finantelor Publice (Anexa 2), rezulta ca exista riscul ca „in functie de conditiile care genereaza

Dear collaborators,

1) We bring to your attention the position of the Ministry of Public Finance and ANAF regarding the tax regime of gift vouchers.

At this moment, granting of gift vouchers by economic operators to individuals, except the relationship that involves income from salaries, has been considered as a relationship that gives rise to income from other sources at the level of the individual.

In this case, the respective incomes are subject to withholding tax at source by applying 10%, according to art. 132, para. (1) and (2) of Law 227/2015, and the economic operators that are paying these incomes have the obligation to declare both the tax withheld at source (Statement 100 regarding the payment obligations to the state budget), respectively of the incomes obtained and the tax due on each beneficiary (Informative Statement 205 regarding the tax withheld at source).

For the incomes from other sources, the CAS (the social insurance contribution) is not owed, and in the situation where the cumulative value of the incomes made by the individual is greater than or equal to 12 gross minimum wages, the individual is liable to pay CASS (the social health insurance contribution) at a rate of 10%. The individual has the obligation to submit the Unique Statement.

This tax treatment can also be found in the address issued by ANAF (Annex 1).

2) However, from the internal address issued by the Ministry of Public Finance (Annex 2), it results that there is a risk that "depending on the

veniturile”, acordarea tichetelor cadou catre persoane fizice sa fie reincadrata ca fiind o relatie care imbraca forma unor venituri din salarii, acestea fiind asimilate avantajelor in natura, fiind impozitate ca atare, atat impozit pe venit cat si contributiile sociale obligatorii.

conditions that generates the incomes", the granting of gift vouchers to individuals will be reclassified as a relationship that has the nature of income from salaries, these being assimilated to advantages in nature, being taxed as such, both income tax and compulsory social contributions.

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