



Stimati colaboratori,

Referitor la aplicarea prevederilor OUG 33/2020, in ceea ce priveste bonificatiile de care beneficiaza entitatile economice care platesc impozitul pe profit/impozitul pe venitul microintreprinderilor, dupa caz, aferent trimestrului I 2020 - pana la data de 25.04 2020 inclusiv, sau pana la termenul scadent cuprins in perioada 25.04-25.06.2020 (pentru contribuabilii cu anul fiscal diferit de anul calendaristic ), consideram ca pentru a putea beneficia de aceste bonificatii este necesar ca obligatiile fiscale principale cu termene de plata anterioare datei de 25 aprilie 2020 (anterioare unei date din perioada 25.04-25.06.2020, pentru contribuabilii cu anul fiscal diferit de anul calendaristic), sa fie achitate integral pana la data platii impozitului pe profit /pe venitul microintreprinderilor aferente trim. I/2020,cu alte cuvinte sa nu figureze cu obligatii fiscale principale neachitate.

Acest considerent porneste de la urmatoarele aspecte legale:

- a) procedura de distribuire a sumelor achitate de contribuabili in contul unic si modalitatea de stingere a obligatiilor de plata, astfel cum sunt ele reglementate de Codul de procedura fiscala (Legea nr. 207/2020), art. 163-„Dispozitii privind efectuarea platii”, art. 165- „Ordinea stingerii obligatiilor fiscale” si,
- b) metodologia ANAF de distribuire a sumelor platite de contribuabili în contul unic și de

Dear collaborators,

Regarding the application of the provisions of the GEO 33/2020, on bonuses for the economic entities paying corporate tax/income tax on micro-enterprises, as appropriate, for the first quarter of 2020 - up to and including April 25<sup>th</sup>, 2020, or up to the due date in the period April 25<sup>th</sup> to June 25<sup>th</sup>, 2020 (for taxpayers with a fiscal year other than the calendar year), we believe that in order to benefit from these bonuses it is necessary that the principal tax obligations with payment periods prior to April 25<sup>th</sup>, 2020 (prior to a date from April 25<sup>th</sup> to June 25<sup>th</sup>, 2020 for taxpayers with a tax year other than the calendar year), to be paid in full by the date of payment of the income/profit tax of the micro-enterprises in respect of trimester I/2020, i.e. not shown with outstanding principal tax liabilities.

This consideration starts from the following legal aspects:

- a) the procedure for distributing the amounts paid by taxpayers to the single account and the method of extinguishing the payment obligations as governed by the Code of tax procedure (Law no. 207/2020), Article 163 - "provisions for payment", Article 165 - "order of discharge of tax liabilities", and,
- b) National Agency for Tax Administration's methodology for distributing

stingere a obligațiilor fiscale, prevazuta de Ordin ANAF nr. 1613/ 28.06.2018.

Din cele doua prevederi legale, rezulta ca ordinea de stingere a obligatiilor fiscale ca urmare a platilor efectuate de contribuabili este:

- obligatii fiscale principale constand in impozite si contributii cu retinere la sursa;
- obligatii fiscale principale pentru toate celelalte obligatii fiscale principale;
- obligatii fiscale accesorii aferente obligatiilor fiscale principale mai sus mentionate.

Astfel, se impune, ca aplicarea beneficiului bonificatiei de 5%, respectiv 10%, din impozitul pe profit/impozitul pe venitul microintreprinderilor, dupa caz, sa se efectueze in conditii de siguranta, respectiv ca nu exista debite neachitate a caror scadenta a fost anterioara datei de 25.04.2020 sau anterioara unei date din perioada 25.04-25.06.2020.

the amounts paid by taxpayers to the single account and for extinguishing the tax liability, as required by order of the National Agency for Tax Administration no. 1613/28.06.2018. It follows from the two legal provisions that the order of extinguishing the tax liability as a result of payments made by taxpayers is:

- principal tax liabilities consisting of withholding taxes and contributions;
- principal tax liabilities in respect of all other principal tax liabilities;
- ancillary tax liabilities related to the above mentioned principal tax liabilities.

Thus, the application of the 5% and 10% bonus on the income tax/on the income of micro-enterprises should be made, as appropriate, to be carried out safely, i.e. there are no unpaid debts whose maturity was earlier than April 25<sup>th</sup>, 2020 or earlier than a date in the period April 25<sup>th</sup> – June 25<sup>th</sup>, 2020.

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