



Ordonanta de urgenta nr. 153/2020 pentru instituirea unor masuri fiscale de stimulare a mentinerii/cresterii capitalurilor proprii, precum si pentru completarea unor acte normative("OUG")

In vigoare de la 04 septembrie 2020

Art. I

Contribuabilii platitori de impozit pe profit, indiferent de sistemul de declarare si plata, contribuabilii platitori de impozit pe veniturile microintreprinderilor, precum si contribuabilii care intra sub incidenta prevederilor Legii nr. 170/2016 privind impozitul specific unor activitati, beneficiaza de reduceri ale impozitului pe profit anual/impozitului pe veniturile microintreprinderilor/impozitului specific unor activitati, astfel:

- a) 2%, in cazul in care capitalul propriu contabil, prezentat in situatiile financiare anuale, respectiv in raportarile contabile anuale pentru sediile permanente ale persoanelor juridice rezidente in state apartinand Spatiului Economic European, in anul pentru care datoreaza impozitul, este pozitiv. Este mentinuta prevederea din Legea 31/1990, respectiv, aceea ca nivelul capitalului social sa fie cel putin egal cu jumatate din capitalul social subscris.
- b) daca inregistreaza o crestere anuala a capitalului propriu ajustat al anului pentru care datoreaza impozitul fata de capitalul propriu ajustat inregistrat in anul precedent si indeplineste concomitent conditia prevazuta la lit. a), reducerile au urmatoarele valori:

Emergency Ordinance no. 153/2020 for the establishment of fiscal measures to stimulate the maintenance/increase of equity, as well as for the completion of normative acts ("GEO")

In force since September 4th, 2020

Art. I

Taxpayers paying profit tax, regardless of the declaration and payment system, taxpayers paying income tax on micro-enterprises, as well as taxpayers subject of the provisions of Law no. 170/2016 regarding the tax specific to certain activities, benefits from reductions of the annual profit tax/income tax of micro-enterprises/tax specific to certain activities, as follows:

- a) 2%, if the accounting equity, presented in the annual financial statements, respectively in the annual accounting reports for the permanent headquarters of the legal entities resident in states belonging to the European Economic Area, in the year for which it owes the tax, is positive. The provision of Law 31/1990 is maintained, respectively, that the level of the share capital be at least equal to half of the subscribed share capital.
- b) if it registers an annual increase of the adjusted equity of the year for which it owes the tax compared to the adjusted equity registered in the previous year and at the same time fulfills the condition provided at let. a), the discounts have the following values:



Procentul de reducere a impozitului	Intervalele de crestere anuala a capitalului propriu ajustat
5%	pana la 5% inclusiv
6%	peste 5% si pana la 10% inclusiv
7%	peste 10% si pana la 15% inclusiv
8%	peste 15% si pana la 20% inclusiv
9%	peste 20% si pana la 25% inclusiv
10%	peste 25%

- c) 3%, daca inregistreaza o crestere peste nivelul prevazut la art. I alin. (4) a capitalului propriu ajustat al anului pentru care datoreaza impozitul fata de capitalul propriu ajustat inregistrat in anul 2020 si daca indeplineste concomitent conditia prevazuta la lit. a) de mai sus. Aceste prevederi se aplica incepand cu anul 2022, respectiv incepand cu anul fiscal modificat care incepe in anul 2022.

Daca sunt aplicabile doua sau trei din reducerile prevazute la lit)a – lit.c) mai sus, pentru determinarea valorii reducerii, procentele corespunzatoare acestora se aduna, iar valoarea rezultata se aplica asupra impozitului.

Nu intra sub incidenta prevederilor prezentului articol contribuabilii pentru care reglementarile contabile sunt emise de Banca Nationala a Romaniei, respectiv de Autoritatea de Supraveghere Financiara.

Procentul de crestere a capitalului propriu ajustat al anului pentru care datoreaza impozitul fata de

The percentage of tax reduction	Adjusted annual capital growth intervals
5%	up to 5% inclusive
6%	over 5% up to and including 10%
7%	over 10% up to and including 15%
8%	over 15% up to and including 20%
9%	over 20% up to and including 25%
10%	over 25%

- c) 3%, if it registers an increase over the level provided in art. I para. (4) of the adjusted equity of the year for which it owes the tax to the adjusted equity registered in 2020 and if it simultaneously fulfills the condition provided in let. a) above. These provisions apply starting with the year 2022, respectively starting with the modified fiscal year starting in 2022.

If two or three of the discounts provided above are applicable, in order to determine the value of the reduction, the percentages corresponding to them are added, and the resulting value is applied on the tax.

The taxpayers for whom the accounting regulations are issued by the National Bank of Romania, respectively by the Financial Supervisory Authority, do not fall under the provisions of this article.

The percentage increase of the adjusted equity of the year for which it owes the tax compared to the



capitalul propriu ajustat inregistrat in anul 2020 are urmatoarele valori:

Anul pentru care datoreaza impozitul	Procentul minim de crestere a capitalului propriu ajustat
2022	5%
2023	10%
2024	15%
2025	20%

Capitalul propriu ajustat cuprinde urmatoarele elemente:

- 1) capital subscris varsat/capital de dotare;
- 2) patrimoniul regiei;
- 3) patrimoniul public;
- 4) patrimoniul privat;
- 5) patrimoniul institutelor nationale de cercetare-dezvoltare;
- 6) prime de capital;
- 7) rezerva legala, statutara sau contractuala si alte rezerve constituite din profitul net ca urmare a deciziei actionarilor/asociatilor sau potrivit prevederilor legale;
- 8) rezultatul net reportat - sold creditor, reprezentand diferenta pozitiva dintre soldurile creditoare si debitoare.

In cazul in care in anul pentru care datoreaza impozitul se efectueaza urmatoarele operatiuni de reorganizare, potrivit legii, care produc efecte in anul respectiv, contribuabilii stabilesc capitalul propriu ajustat al anului precedent, respectiv al anului 2020, potrivit urmatoarelor reguli:

- a) contribuabilii care, in cazul fuziunii, absorb una sau mai multe persoane juridice, insumeaza capitalul propriu ajustat inregistrat de acestia in anul precedent, respectiv anul 2020, cu capitalul propriu ajustat pentru aceiasi ani inregistrat de celelalte societati cedente;

adjusted equity registered in 2020 has the following values:

The year for which the tax is due	The minimum percentage of capital increase adjusted
2022	5%
2023	10%
2024	15%
2025	20%

The adjusted equity includes the following elements:

- 1) paid-in subscribed capital/endowment capital;
- 2) the patrimony of the directorate;
- 3) public patrimony;
- 4) private patrimony;
- 5) the patrimony of the national research-development institutes;
- 6) capital premiums;
- 7) legal, statutory or contractual reserve and other reserves constituted from the net profit as a result of the decision of the shareholders/associates or according to the legal provisions;
- 8) net carried forward result - credit balance, representing the positive difference between credit and debit balances.

If in the year for which the tax is due the following reorganization operations are carried out, according to the law, which produce effects in the respective year, the taxpayers establish the adjusted equity of the previous year, respectively of 2020, according to the following rules:

- a) the taxpayers who, in case of merger, absorb one or more legal entities, sum up the adjusted equity registered by them in the previous year, respectively the year 2020, with the adjusted equity for the same year registered by the other assigning companies;

- b) contribuabilii infiintati prin fuziunea a doua sau mai multe persoane juridice insumeaza capitalul propriu ajustat inregistrat in anul precedent, respectiv anul 2020, de societatile cedente;
- c) contribuabilii infiintati prin divizarea sub orice forma a unei persoane juridice impart capitalul propriu ajustat inregistrat in anul precedent, respectiv in anul 2020, de societatea cedenta proportional cu valoarea activelor transferate, conform proiectului de divizare intocmit potrivit legii;
- d) contribuabilii care primesc active si pasive prin operatiuni de divizare sub orice forma a unei persoane juridice insumeaza capitalul propriu ajustat inregistrat de acestia in anul precedent, respectiv anul 2020, cu capitalul propriu ajustat inregistrat de societatea cedenta in aceiasi ani, recalculat proportional cu valoarea activelor transferate, conform proiectului de divizare intocmit potrivit legii;
- e) contribuabilii care transfera, potrivit legii, o parte din patrimoniu uneia sau mai multor societati beneficiare recalculeaza capitalul propriu ajustat pentru anul precedent, respectiv anul 2020, proportional cu valoarea activelor mentinute de catre persoana juridica care transfera activele, conform proiectului de divizare intocmit potrivit legii.

In cazul contribuabililor care in anul pentru care datoreaza impozitul devin sedii permanente ale persoanelor juridice straine, capitalul propriu ajustat al anului precedent, respectiv al anului 2020, se stabileste potrivit urmatoarelor reguli:

- a) in cazul fuziunii prin absorbtie, capitalul propriu ajustat al sediului permanent pentru anul precedent, respectiv anul 2020, este cel inregistrat de catre societatea cedenta;
- b) in cazul divizarii totale, divizarii partiale si transferului de active, sediile permanente

- b) the taxpayers established by the merger of two or more legal entities sum up the adjusted equity registered in the previous year, respectively the year 2020, by the transferring companies;
- c) the taxpayers established by the division in any form of a legal entity divide the adjusted equity registered in the previous year, respectively in 2020, by the transferring company proportionally with the value of the transferred assets, according to the division project prepared according to law;
- d) taxpayers who receive assets and liabilities through division operations in any form of a legal entity add up the adjusted equity registered by them in the previous year, respectively 2020, with the adjusted equity registered by the transferring company in the same year, recalculated proportionally to the value transferred assets, according to the division project prepared according to the law;
- e) the taxpayers who transfer, according to the law, a part of the patrimony to one or more beneficiary companies recalculate the adjusted own capital for the previous year, respectively 2020, proportionally with the value of the assets maintained by the legal person transferring the assets, according to the division project laws.

In the case of taxpayers who in the year for which they owe the tax become permanent headquarters of foreign legal entities, the adjusted equity of the previous year, respectively of 2020, is established according to the following rules:

- a) in case of merger by absorption, the adjusted own capital of the permanent establishment for the previous year, respectively the year 2020, is the one registered by the transferring company;
- b) in case of total division, partial division and transfer of assets, the permanent establishments

determina capitalul propriu ajustat pentru anul precedent, respectiv anul 2020, in baza celui inregistrat de societatea cedenta, recalculat pentru fiecare sediu permanent, proportional cu valoarea activelor. Societatile cedente care nu inceteaza sa existe in urma efectuarii unei astfel de operatiuni stabilesc capitalul propriu ajustat potrivit regulilor prevazute la art. 33 alin. (8) lit. e) din Codul Fiscal.

Contribuabilii care intra sub incidenta prevederilor art. 16 alin. (5) din Codul fiscal au in vedere urmatoarele:

- a) anul de baza care se substituie anului 2020 pentru aplicarea alin. (1) lit. c) din prezenta ordonanta, este anul fiscal modificat incheiat in anul 2021;
- b) procentul de crestere care se aplica este cel corespunzator anului fiscal modificat care incepe in anii prevazuti la alin. (4);
- c) ultimul an fiscal modificat pentru care se aplica reducerile este anul care se incheie in anul 2026.

Pentru platitorii de impozit pe profit procentul aferent reducerii de impozit se aplica la impozitul pe profit anual al anului in care sunt indeplinite conditiile prevazute alin. (1) in prezenta OUG, iar valoarea reducerii rezultate se scade din acesta.

Pentru platitorii de impozit pe veniturile microintreprinderilor procentul aferent reducerii de impozit se aplica la impozitul datorat pe intregul an fiscal, iar valoarea reducerii rezultate se scade din impozitul aferent trimestrului IV. In cazul in care valoarea reducerii este mai mare decat impozitul aferent trimestrului IV, diferenta care nu a fost scazuta din impozitul aferent trimestrului IV se scade din impozitul aferent trimestrelor anterioare, prin depunerea unei declaratii rectificative.

Pentru microintreprinderile care devin platitoare de impozit pe profit in anul pentru care se aplica reducerea, procentul aferent reducerii de impozit se

determine the adjusted equity for the previous year, respectively 2020, based on the one registered by the transferring company, recalculated for each permanent establishment, proportional to the value of assets. The assigning companies that do not cease to exist as a result of performing such an operation establish the adjusted equity according to the rules provided in art. 33 para. (8) lit. e) of the Tax Code.

Taxpayers who fall under the provisions of art. 16 para. (5) of the Tax Code take into account the following:

- a) the base year that replaces the year 2020 for the application of par. (1) lit. c) of this ordinance, is the modified fiscal year ended in 2021;
- b) the percentage of increase that is applied is the one corresponding to the modified fiscal year that starts in the years provided in par. (4);
- c) the last modified fiscal year for which the reductions are applied is the year ending in 2026.

For the payers of the profit tax, the percentage related to the tax reduction is applied to the annual profit tax of the year in which the conditions provided in the present GEO are fulfilled., and the value of the resulting reduction is deducted from it.

For the payers of income tax on micro-enterprises, the percentage related to the tax reduction is applied to the tax due for the entire fiscal year, and the value of the resulting reduction is deducted from the tax related to the fourth quarter. If the amount of the reduction is higher than the tax related to the fourth quarter, the difference that was not deducted from the tax related to the fourth quarter is deducted from the tax related to the previous quarters, by submitting an amending declaration.

For micro-enterprises that become profit tax payers in the year for which the reduction is applied, the percentage related to the tax reduction is applied



aplica asupra impozitului pe veniturile microintreprinderilor insumat cu impozitul pe profit, iar valoarea reducerii rezultate se scade din impozitul pe profit.

Pentru platitorii de impozit specific unor activitati procentul aferent reducerii de impozit se aplica la impozitul datorat pe intregul an fiscal, iar valoarea reducerii rezultate se scade din impozitul datorat pentru semestrul II. In cazul in care valoarea reducerii este mai mare decat impozitul aferent semestrului II, diferenta care nu a fost scazuta din impozitul aferent semestrului II se scade din impozitul aferent semestrului I, prin depunerea unei declaratii rectificative.

Platitorii de impozit specific unor activitati care datoreaza si impozit pe profit aplica reducerea atat pentru impozitul specific, cat si pentru impozitul pe profit.

Termenele pentru depunerea declaratiilor si pentru plata impozitului sunt:

- 1- Pentru contribuabilii platitori de impozit pe profit, prin derogare de la prevederile art. 41 si 42 din Codul fiscal, termenul pentru depunerea declaratiei anuale privind impozitul pe profit si plata impozitului pe profit aferent anului fiscal respectiv este pana la data de 25 iunie inclusiv a anului urmator, iar pentru contribuabilii care intra sub incidenta prevederilor art. 16 alin. (5) din Codul fiscal pana la data de 25 a celei de-a sasea luni inclusiv de la inchiderea anului fiscal modificat;
- 2- Pentru contribuabilii platitori de impozit pe veniturile microintreprinderilor, prin derogare de la prevederile art. 56 din Codul fiscal, termenul pentru depunerea declaratiei aferente trimestrului IV si plata impozitului aferent acestui trimestru este pana la data de 25 iunie inclusiv a anului urmator;
- 3- Pentru platitorii de impozit specific unor activitati, prin derogare de la

on the income tax of micro-enterprises added to the profit tax, and the value of the resulting reduction is deducted from the profit tax.

For activity-specific taxpayers, the percentage related to the tax reduction is applied to the tax due for the entire fiscal year, and the value of the resulting reduction is deducted from the tax due for the second semester. If the amount of the reduction is higher than the tax for the second semester, the difference that has not been deducted from the tax for the second semester is deducted from the tax for the first semester, by submitting a rectifying declaration.

Payers of specific tax to certain activities that also owe profit tax apply the reduction for both the specific tax and the profit tax.

The deadlines for submitting the declarations and for paying the tax are:

- 1- For the taxpayers paying profit tax, by derogation from the provisions of art. 41 and 42 of the Tax Code, the term for submitting the annual declaration regarding the profit tax and the payment of the profit tax afferent to the respective fiscal year is until June 25 inclusive of the following year, and for the taxpayers falling under the provisions of art. 16 para. (5) of the Tax Code until the 25th of the sixth month, including the closing of the amended fiscal year;
- 2- For the taxpayers paying the income tax of the micro-enterprises, by derogation from the provisions of art. 56 of the Tax Code, the term for submitting the declaration related to the fourth quarter and the payment of the tax related to this quarter is until June 25th , inclusive of the following year;
- 3- For the taxpayers specific to some activities, by derogation from the provisions of art. 8 of

prevederile art.8 din Legea nr. 170/2016, cu completarile ulterioare, termenul pentru depunerea declaratiei aferente semestrului II si plata impozitului aferent acestui semestru este pana la data de 25 iunie inclusiv a anului urmator.

Pentru contribuabilii infiintati in cursul anului, cu exceptia celor prevazuti la art. I alin. (8) si (9) din OUG, anul infiintarii reprezinta anul de baza care se substituie anului 2020 pentru aplicarea prevederilor art. I alin. (1) lit. c) din OUG.

Pentru contribuabilii care intra sub incidenta art. 16 alin. (5) din Codul fiscal prevederile art. I din OUG se aplica cu anul fiscal modificat care incepe in anul 2021.

Art.II

Se introduc noi alineate dupa alin. 6 al articolului 1 din OUG 33/2020, privind unele masuri fiscale, retinandu-se urmatoarele prevederi:

Pentru definitivarea impozitului pe profit aferent anului fiscal prin declaratia anuala privind impozitul pe profit, bonificatia aplicata se scade din valoarea impozitului pe profit aferent anului fiscal, iar in cazul in care bonificatia depaseste valoarea impozitului pe profit aferent anului fiscal, suma aferenta bonificatiei care se ia in calcul este la nivelul valorii impozitului respectiv.

Pentru contribuabilii cu anul fiscal modificat care aplica sistemul trimestrial de declarare si plata a impozitului pe profit, precum si in cazul celor cu anul fiscal modificat care intra sub incidenta prevederilor art. 41 alin. (10) din Legea nr. 227/2015 diferenta de impozit pe profit datorat determinata la definitivarea impozitului pe profit aferent anului fiscal se considera impozit pe profit datorat aferent ultimului trimestru. Aceasta prevedere se aplica si pentru diferenta de impozit pe profit datorat, determinata la definitivarea impozitului pe profit

Law no. 170/2016, with the subsequent completions, the term for submitting the declaration related to the second semester and the payment of the tax related to this semester is until June 25th inclusive of the following year.

For the taxpayers established during the year, except for those provided in art. I para. (8) and (9) of GEO, the year of establishment represents the base year that replaces the year 2020 for the application of the provisions of art. I para. (1) lit. c) of GEO.

For the taxpayers who fall under the incidence of art. 16 para. (5) of the Tax Code, the provisions of art. I of GEO shall be applied with the modified fiscal year starting in 2021.

Art. II

New paragraphs are inserted after par. 6 of article 1 of GEO 33/2020, regarding some fiscal measures, retaining the following provisions:

In order to finalize the profit tax related to the fiscal year through the annual declaration regarding the profit tax, the bonus applied shall be deducted from the amount of the income tax relating to the tax year and, if the bonus exceeds the amount of the income tax relating to the tax year, the amount of the bonus to be taken into account shall be at the level of the amount of that tax.

For the taxpayers with the modified fiscal year that applies the quarterly system of declaration and payment of the profit tax, as well as in the case of those with the modified fiscal year subject of the provisions of art. 41 para. (10) of Law no. 227/2015, the difference in profit tax due determined at the finalization of the profit tax related to the fiscal year is considered profit tax due related to the last quarter. This provision also applies to the difference in profit tax due, determined at the end of the profit tax related to the fiscal year, if it is paid by the due

afereant anului fiscal, daca aceasta este platita pana la termenul scadent cuprins in perioada 26 decembrie 2020-25 februarie 2021 inclusiv.

Contribuabilii care au depus declaratia privind impozitul pe profit fara aplicarea bonificatiilor, pot beneficia de acestea, pentru diferenta de impozit pe profit datorat determinata la definitivarea impozitului pe profit afereant anului fiscal respectiv, prin depunerea unei declaratii rectificative, cu respectarea conditiilor prevazute in cadrul acestor alineate.

Bonificatia se acorda si pentru impozitul pe profit datorat trimestrial/plata anticipata trimestriala, care se stinge cu impozitul pe profit de recuperat din anii fiscali precedenti. Aceste prevederi se aplica si pentru stingerile efectuate pentru impozitul pe profit datorat trimestrial/plata anticipata trimestriala aferente trimestrelor I si II ale anului 2020, respectiv pentru cele aferente perioadelor scadente pentru contribuabilii cu anul fiscal modificat, cu impozitul pe profit de recuperat din anii fiscali precedenti. De aceste prevederi pot beneficia si contribuabilii care au depus declaratia privind impozitul pe profit datorat trimestrial/plata anticipata trimestriala aferenta trimestrelor I si/sau II ale anului 2020, respectiv pentru perioadele scadente, pentru contribuabilii cu anul fiscal modificat, fara aplicarea bonificatiilor prin depunerea unei declaratii rectificative.

Art.III

Incepand cu data intrarii in vigoare a prezentei OUG se suspenda extragerile lunare si ocazionale ale Loteriei bonurilor fiscale organizate in baza Ordonantei Guvernului nr. 10/2015.

Extragerile Loteriei bonurilor fiscale se reiau in termen de 90 de zile de la data incetarii starii de alerta/urgenta, dupa caz.

date between December 26th , 2020 and February 25th , 2021 inclusive.

Taxpayers who have submitted the income tax return without applying the bonuses, may benefit from them, for the profit tax difference due determined at the end of the income tax for the respective fiscal year, by submitting a rectifying declaration, in compliance with the conditions provided in these paragraphs.

The bonus is also granted for the profit tax due quarterly/quarterly advance payment, which is extinguished with the profit tax to be recovered from the previous fiscal years. These provisions also apply to the settlements made for the quarterly profit tax/quarterly advance payment related to the first and second quarters of 2020, respectively for those due to the due periods for taxpayers with the modified fiscal year, with the profit tax recoverable from previous fiscal years . These provisions can also benefit taxpayers who have submitted the declaration on income tax due quarterly/quarterly advance payment for the first and/or second quarters of 2020, respectively for the due periods, for taxpayers with modified fiscal year, without applying bonuses by submitting a corrective statements.

Art. III

Starting with the entry into force of this GEO, monthly and occasional excerations of the tax voucher Lottery organized under Government Ordinance 10/2015 shall be suspended.

The draws of the Lottery of fiscal vouchers are resumed within 90 days from the date of cessation of the alert/emergency state, as the case may be.



Art. IV

Prevederile art. I din OUG 153/2020 intra in vigoare incepand cu data de 1 ianuarie 2021 si se aplica pentru perioada 2021-2025.

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The provisions of art. I of GEO 153/2020 enters into force starting with January 1st, 2021 and applies for the period 2021-2025.

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