



Ordinul nr. 3896/2020 emis de catre Agentia Nationala de Administrare Fiscala, pentru aprobarea Procedurii de acordare a esalonarii la plata de catre organul fiscal central, precum si pentru modificarea anexei nr. 2 la Ordinul presedintelui Agentiei Nationale de Administrare Fiscala nr. 90/2016 pentru aprobarea continutului cererii de acordare a esalonarii la plata si a documentelor justificative anexate acesteia, precum si a Procedurii de aplicare a acordarii esalonarii la plata de catre organul fiscal central

In vigoare de la 19 noiembrie 2020

Procedura de acordare a esalonarii la plata se aplica obligatiilor fiscale principale si accesorii a caror scadenta/termen de plata s-a implinit dupa data declararii starii de urgenta si nestinse pana la data eliberarii certificatului de atestare fiscala, pentru care debitorii pot depune cereri de esalonare la plata.

Esalonarea la plata se acorda de catre organul fiscal, pe o perioada de cel mult 12 luni, prin emiterea deciziei de esalonare la plata a obligatiilor fiscale, la care se anexeaza graficul de plata care cuprinde rate lunare, in functie de numarul de luni de esalonare la plata aprobat. Perioada de esalonare la plata acordata nu poate fi mai mare decat perioada de esalonare la plata solicitata de debitor.

Cererea privind esalonarea la plata a obligatiilor fiscale trebuie depusa de contribuabil la organul fiscal pana la data de 15 decembrie 2020 inclusiv (la registratura, prin posta cu confirmare de primire, prin intermediul serviciului "Spatiu privat virtual").

Order no. 3896/2020 issued by the National Agency for Tax Administration, for the approval of the Procedure for granting the payment rescheduling by the central fiscal body, as well as for the amendment of annex no. 2 to the Order of the president of the National Agency for Tax Administration no. 90/2016 for the approval of the content of the request for granting the payment rescheduling and of the supporting documents attached to it, as well as of the Procedure for applying the payment rescheduling by the central fiscal body

In force since November 19th, 2020

The procedure for granting the payment rescheduling applies to the main and ancillary fiscal obligations whose maturity/payment term was fulfilled after the date of declaring the state of emergency and not extinguished until the date of issuing the fiscal attestation certificate, for which the debtors can submit payment rescheduling requests.

The payment rescheduling is granted by the fiscal body, for a period of maximum 12 months, by issuing the decision to reschedule the payment of fiscal obligations, to which is attached the payment schedule that includes monthly installments, depending on the number of months of rescheduling the payment approved. The payment rescheduling period granted may not be longer than the payment rescheduling period requested by the debtor.

The request regarding the rescheduling of the payment of the fiscal obligations must be submitted by the taxpayer to the fiscal body until December 15th, 2020 inclusive (at the registry, by



Pentru debitorii care au infiintate sedii secundare inregistrate fiscal, potrivit legii, cererea de acordare a esalonarilor la plata se depune de catre debitor atat pentru obligatiile fiscale datorate de acesta, cat si pentru cele ale sediilor sale secundare.

Daca debitorul opteaza pentru plata diferentiata a ratelor de esalonare, acesta mentioneaza in cerere propunerea de grafic, care va cuprinde, pentru fiecare rata, procentul care poate fi achitat din obligatiile fiscale principale si accesorii.

Pentru debitorul care propune prin cererea de acordare a esalonarii la plata un grafic, ratele de esalonare la plata trebuie sa fie in primele 6 luni de cel putin 5% din cuantumul obligatiilor fiscale esalonate la plata, la care se adauga dobanda pe perioada esalonarii la plata calculata de organul fiscal, iar in urmatoarele luni debitorul trebuie sa achite restul obligatiilor fiscale, proportional cu lunile pentru care a fost acordata esalonarea la plata.

Dupa primirea cererii de esalonare, in termen de cel mult 5 zile lucratoare de la data inregistrarii acesteia, organul fiscal emite, concomitent, urmatoarele documente:

- a) deciziile referitoare la obligatiile fiscale accesorii reprezentand dobanzi si penalitati de intarziere/penalitate de nedeclarare;
- b) certificatul de atestare fiscala, conform modelelor prevazute in anexele nr. 3 si 4, dupa caz;
- c) referatul de verificare a conditiilor de acordare/modificare/mentinere a esalonarii la plata, conform modelului prevazut in anexa nr. 5;
- d) decizia de esalonare la plata a obligatiilor fiscale sau decizia de respingere, dupa caz, conform modelelor prevazute in anexele nr. 6 si 7;

mail with confirmation of receipt, through the "Virtual private space" service).

For the debtors who have established fiscally registered secondary offices, according to the law, the request for granting payment rescheduling is submitted by the debtor both for the fiscal obligations due to him and for those of his secondary offices.

If the debtor opts for differentiated payment of rescheduling rates, he mentions in the application the proposal of the schedule, which will include, for each installment, the percentage that can be paid from the main and accessory fiscal obligations.

For the debtor who proposes a schedule for payment of installments, the payment rescheduling rates must be in the first 6 months of at least 5% of the amount of tax obligations rescheduled for payment, plus interest during the payment rescheduling period calculated by the fiscal body, and in the following months the debtor must pay the rest of the fiscal obligations, proportionally with the months for which the payment rescheduling was granted.

After receiving the request for rescheduling, within a maximum of 5 working days from the date of its registration, the fiscal body issues, at the same time, the following documents:

- a) the decisions regarding the accessory fiscal obligations representing interests and penalties for delay/non-declaration penalty;
- b) the fiscal attestation certificate, according to the models provided in annexes no. 3 and 4, as appropriate;
- c) the report verifying the conditions for granting/modifying/maintaining the payment rescheduling, according to the model provided in annex no. 5;
- d) the decision to reschedule the payment of fiscal obligations or the decision to reject, as the case may



e) decizia de amanare la plata a penalitatilor de nedeclarare, dupa caz, conform modelului prevazut in anexa nr. 8.

Termenul de plata a ratelor de esalonare este data de 15 a fiecărei luni. Prima rata din graficul de esalonare la plata are termenul de plata data de 15 a lunii urmatoare emiterii deciziei de esalonare la plata a obligatiilor fiscale.

Pentru debitorii care au infiintate sedii secundare inregistrate fiscal, platitor al ratelor de esalonare este debitorul, cu exceptia impozitului pe venitul din salarii, pentru care platitor de impozit este sediul secundar.

Organul fiscal care emite decizia de esalonare la plata/decizia de amanare la plata a penalitatilor de nedeclarare poate indrepta erorile din continutul acestora, din oficiu sau la cererea debitorului, printr-o decizie.

In cazul in care exista diferente intre obligatiile fiscale pentru care a fost acordata esalonare la plata/amanare la plata si cele existente in evidenta contabila a debitorului, organul fiscal clarifica situatia fiscala a acestuia, sens in care intocmeste in doua exemplare procesul-verbal de punere de acord, conform modelului prevazut in anexa nr. 9.

Pe perioada esalonarii, nu continua procedura de executare silita dupa emiterea somatiei pentru creantele stabilite de alte organe decat organele fiscale si transmise spre recuperare organelor fiscale, precum si amenzile de orice fel, pentru care au fost comunicate somatii dupa data comunicarii deciziei de esalonare la plata.

In situatia in care sumele esalonate la plata au fost stinse in totalitate organul fiscal emite in doua

be, according to the models provided in annexes no. 6 and 7;

e) the decision to postpone the payment of the non-declaration penalties, as the case may be, according to the model provided in annex no. 8.

The payment term of the installment rates is the 15th of each month. The first rate of the installment payment schedule has the payment deadline of 15 of the month following the issue of the decision on payment of tax debts.

For debtors who have established fiscally registered secondary offices, the payer of the installment rates is the debtor, except for the income tax from salaries, for which the tax payer is the secondary office.

The fiscal body that issues the decision to reschedule the payment/the decision to postpone the payment of non-declaration penalties may correct the errors in their content, ex officio or at the request of the debtor, by a decision.

If there are differences between the fiscal obligations for which a payment rescheduling/deferral was granted and those existing in the debtor's accounting records, the fiscal body clarifies its fiscal situation, meaning that it draws up in two copies the agreement report, according to the model provided in annex no. 9.

During the rescheduling period, the enforcement procedure does not continue after the issuance of the summons for the receivables established by other bodies than the fiscal bodies and sent for recovery to the fiscal bodies, as well as the fines of any kind, for which the summonses were communicated after the communication rescheduling decision.

In the situation when the amounts rescheduled for payment have been completely extinguished, the



exemplare decizia de finalizare a esalonarii la plata a obligatiilor fiscale conform modelului prevazut in anexa nr. 13. Un exemplar al acestei decizii se comunica debitorului, iar un exemplar se arhiveaza de organul fiscal la dosarul fiscal. In situatia debitorilor care au infiintate sedii secundare inregistrate fiscal, potrivit legii, decizia de finalizare a esalonarii la plata a obligatiilor fiscale se comunica debitorului care le-a infiintat.

Dupa finalizarea esalonarii la plata a obligatiilor fiscale, penalitatea de nedeclarare amanata la plata se reduce cu 75%. In acest caz, organul fiscal emite in doua exemplare decizia de reducere a penalitatilor de nedeclarare amanate la plata, conform modelului prevazut in anexa nr. 14.

Pentru reducerea cu 75% a penalitatilor de nedeclarare, debitorul poate depune la organul fiscal o cerere in acest sens.

Diferenta de penalitati de nedeclarare in cota de 25% se achita in termen de 15 zile de la data comunicarii deciziei de finalizare a esalonarii la plata.

Daca se constata neindeplinirea conditiilor de pastrare a valabilitatii esalonarii, organul fiscal va emite, in termen de cel mult 30 de zile de la data nerespectarii conditiei, in doua exemplare, decizia de constatare a pierderii valabilitatii esalonarii la plata a obligatiilor fiscale/decizia de pierdere a valabilitatii amanarii la plata a penalitatilor de nedeclarare.

Pentru mentinerea unei esalonari a carei valabilitate a fost pierduta, debitorul depune o cerere la organul fiscal.

fiscal body issues in two copies the decision to complete the rescheduling of the fiscal obligations according to the model provided in annex no. 13. A copy of this decision is communicated to the debtor, and a copy is archived by the fiscal body in the fiscal file. In the situation of the debtors who have established fiscally registered secondary offices, according to the law, the decision to complete the rescheduling of the payment of the fiscal obligations is communicated to the debtor who established them.

After the completion of the payment schedule of the fiscal obligations, the non-declaration penalty postponed for payment is reduced by 75%. In this case, the fiscal body issues in two copies the decision to reduce the non-declaration penalties postponed to payment, according to the model provided in annex no. 14.

For the reduction by 75% of the non-declaration penalties, the debtor can submit to the fiscal body a request in this respect.

The difference in penalties for non-compliance in the 25% quota shall be paid within 15 days of the date of notification of the decision to complete the installment.

If the non-fulfillment of the conditions for maintaining the validity of the rescheduling is found, the fiscal body will issue, within maximum 30 days from the date of non-compliance with the condition, in two copies, the decision to establish the loss of the validity of the rescheduling to the payment of the fiscal obligations/the decision of the loss of the validity of the postponement to the payment of the non-declaration penalties.

In order to maintain a rescheduling whose validity has been lost, the debtor submits a request to the fiscal body.



Odata cu decizia de mentinere a esalonarii la plata, organul fiscal competent anuleaza penalitatile stabilite prin decizia referitoare la obligatiile de plata accesorii reprezentand penalitati.

Daca, ulterior emiterii deciziei de esalonare la plata a obligatiilor fiscale si/sau a deciziei de amanare la plata a penalitatilor de nedeclarare, dupa caz, se sting anticipat mai mult de 3 rate din graficul de esalonare la plata, organul fiscal emite, din oficiu, o decizie de modificare a deciziei de esalonare la plata a obligatiilor fiscale.

In situatia in care pe perioada de valabilitate a esalonarii la plata debitorul fuzioneaza prin absorbtie cu unul sau mai multi debitori, dupa caz, care beneficiaza/nu beneficiaza de esalonare la plata, acesta este obligat sa prezinte organului fiscal proiectul de fuziune in momentul in care acesta isi produce efectele potrivit legii si actele justificative ale fuziunii. In termen de 5 zile lucratoare de la data depunerii documentelor justificative ale fuziunii, organul fiscal instiinteaza debitorul cu privire la sumele care trebuie achitate, reprezentand obligatii fiscale preluate de la debitorii care fuzioneaza si nu beneficiaza de esalonare la plata. Modelul instiintarii de plata este prevazut in anexa nr. 19. Pentru mentinerea valabilitatii esalonarii la plata acordate debitorului, obligatiile fiscale preluate trebuie achitate in termen de 30 de zile de la data comunicarii instiintarii de plata.

Daca debitorul rezultat in urma unei fuziuni nu depune documentele justificative fuziunii, inasa organul fiscal constata din oficiu operatiunea de fuziune, in termen de 5 zile lucratoare de la data constatarii, acesta instiinteaza debitorul cu privire la sumele care trebuie achitate, reprezentand obligatii

Together with the decision to maintain the payment rescheduling, the competent fiscal body cancels the penalties established by the decision regarding the accessory payment obligations representing penalties.

If, after issuing the decision to reschedule the payment of tax obligations and/or the decision to postpone the payment of non-declaration penalties, as the case may be, more than 3 rates of the installment payment schedule are extinguished in advance, the tax authority issues, ex officio, a decision to modify the decision to reschedule the payment of fiscal obligations.

If during the validity period of the payment rescheduling the debtor merges by absorption with one or more debtors, as the case may be, who benefit/do not benefit from the payment rescheduling, he is obliged to present to the fiscal body the merger project when it produces its effects according to the law and the supporting documents of the merger. Within 5 working days from the date of submission of the documents justifying the merger, the fiscal body notifies the debtor regarding the amounts to be paid, representing fiscal obligations taken over from the merging debtors and does not benefit from payment rescheduling. The model of the payment notification is provided in annex no. 19. In order to maintain the validity of the payment rescheduling granted to the debtor, the assumed fiscal obligations must be paid within 30 days from the date of communication of the payment notification.

If the debtor resulting from a merger does not submit the documents justifying the merger, but the tax authority ascertains ex officio the merger operation, within 5 working days from the date of ascertainment, it notifies the debtor of the amounts to be paid, representing tax liabilities taken over



fiscale preluate de la debitorii care fuzioneaza si nu beneficiaza de esalonare la plata.

In situatia in care pe perioada de valabilitate a esalonarii la plata debitorul fuzioneaza prin contopire cu unul sau mai multi debitori care beneficiaza/nu beneficiaza de esalonare la plata, organul fiscal emite o noua decizie de esalonare la plata a obligatiilor fiscale si o noua decizie de amanare la plata a penalitatilor de nedeclarare.

In situatia in care pe perioada de valabilitate a esalonarii la plata debitorul se divizeaza si repartizarea soldului obligatiilor fiscale se realizeaza catre acelasi debitor si una sau mai multe societati, organul fiscal, la solicitarea acestuia și pe baza proiectului de divizare și actelor justificative ale divizarii, emite decizia de modificare a deciziei de esalonare la plata a obligatiilor fiscale si, dupa caz, decizia de modificare a deciziei de amanare la plata a penalitatilor de nedeclarare si modifica graficul de esalonare pana la concurenta sumelor ramase ca urmare a divizarii in sarcina debitorului.

Daca, pe perioada de valabilitate a esalonarii la plata, debitorul obtine o suspendare a executarii actului administrativ-fiscal in care sunt individualizate creante fiscale ce fac obiectul esalonarii/amanarii la plata, decizia de esalonare la plata, respectiv decizia de amanare la plata a penalitatilor de nedeclarare se modifica, la cererea debitorului.

Daca decizia de esalonare la plata/ decizia de amanare la plata a penalitatilor de nedeclarare cuprinde doar obligatii fiscale stabilite prin actul administrativ pentru care s-a dispus suspendarea, la cererea debitorului, organul fiscal emite o decizie de desfiintare a deciziei de esalonare la plata/ decizie de desfiintare a deciziei de amanare la plata a penalitatilor de nedeclarare.

from the merging debtors and not benefiting from an installment on payment.

If during the validity period of the payment rescheduling the debtor merges by merging with one or more debtors who benefit/do not benefit from the payment rescheduling, the fiscal body issues a new decision of rescheduling the payment of fiscal obligations and a new decision of postponement of the payment of non-declaration penalties.

If the debtor is divided during the validity period of the payment rescheduling and the distribution of the balance of fiscal obligations is made to the same debtor and one or more companies, the fiscal body, at his request and based on the division project and supporting documents of the division, issues the decision to modify the decision to reschedule the payment of fiscal obligations and, as the case may be, the decision to modify the decision to postpone the payment of undeclared penalties and changes the schedule of installments up to the amount remaining as a result of the division by the debtor.

If, during the validity period of the payment rescheduling, the debtor obtains a suspension of the execution of the administrative-fiscal act in which fiscal receivables are individualized that are subject to rescheduling/deferral of payment, the decision of rescheduling to payment, respectively the decision to defer payment of penalties of non-declaration is modified, at the request of the debtor.

If the decision to reschedule/the decision to postpone the payment of non-declaration penalties includes only fiscal obligations established by the administrative act for which the suspension was ordered, at the request of the debtor, the fiscal body issues a decision to cancel the rescheduling decision/decision of abolition of the decision to



postpone the payment of non-declaration penalties.

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