

The Romanian Parliament adopts this law.

ART. I

Law No 227/2015 on the Fiscal Code, published in the Official Gazette of Romania, Part I, No 688 of 10 September 2015, as amended, is amended and supplemented as follows:

1. Article 287(c) is amended to read as follows:

“C) where price reductions are granted after the supply of the goods or services;”.

2. In Article 314, a new paragraph (7¹) shall be inserted after paragraph 7(7), which reads as follows:

For the purposes of paragraph 7, the end of the month following the end of each calendar quarter shall be deemed to be the last calendar day of that month, even if it is a non-working day.’

3. In Article 315, a new paragraph (6¹) is inserted after paragraph (6), which reads as follows:

For the purposes of paragraph 6, the end of the month following the end of each calendar quarter shall be deemed to be the last calendar day of that month, even if it is a non-working day.’

4. In Article 315², a new paragraph (18¹) is inserted after paragraph 18, which reads as follows:

For the purposes of paragraph 18, the end of the month following the end of the tax period shall be deemed to be the last calendar day of that month, even if it is a non-working day.’

5. In Article 316, paragraphs (6¹) and (6²) are repealed.

6. After Article 321¹ a new article, Article 321², is inserted, which reads as follows:

‘ARTICLE 321²

General obligations of payment service providers

(1) For the purposes of this Article, the following definitions shall apply:

a) payment service provider means any of the categories of payment service providers referred to in Article 2(a) to (d) of Law No 209/2019 on payment services and amending certain normative acts;

b) payment service means any of the activities referred to in Article 7(1)(c) to (f) of Law No 209/2019;

c) payment means, with the exception of the transactions referred to in Articles 4(1) to (4) and 105 of Law No 209/2019, a payment transaction, as defined in Article 5(1), point 36, of Law No 209/2019, or a remittance of money as defined in Article 5(1), point 47 of Law No 209/2019;

d) payer means payer as defined in Article 5(1), point 41 of Law No 209/2019;

e) payee means payee as defined in Article 5(1)(6) of Law No 209/2019;

f) Member State of origin means Member State of origin as defined in Article 5(1), point 55 of Law No 209/2019;

g) host Member State means host Member State as defined in Article 5(1), point 56 of Law No 209/2019;

h) payment account means payment account as defined in Article 5(1), point 11 of Law No 209/2019;

i) IBAN means IBAN as defined in Article 2(15) of Regulation (EU) No 260/2012 of the European Parliament and of the Council of 14 March 2012 establishing technical and business requirements for credit transfers and direct debits in euro and amending Regulation (EC) No 924/2009;

j) BIC means BIC as defined in Article 2(16) of Regulation (EU) No 260/2012.

(2) Payment service providers shall be obliged to keep records of the recipients of payments and payments in relation to the payment services they provide for each calendar quarter, in order to enable the competent tax authorities to carry out checks on supplies of goods and services which, in accordance with the provisions of Chapter V of this Title, are deemed to take place in Romania in order to achieve the objective of combating VAT fraud.

(3) The obligation laid down in paragraph 2 shall apply only to payment services provided in respect of cross-border payments. A payment shall be deemed to be cross-border if the payer is located in one Member State and the payee is located in another Member State, third territory or third country.

(4) The obligation of payment service providers pursuant to paragraph 2 shall apply where, during a calendar quarter, a payment service provider provides payment services corresponding to more than 25 cross-border payments to the same payee.

(5) The number of cross-border payments referred to in paragraph 4 shall be calculated with reference to the payment services provided by the payment service provider for each Member State and for each identifier as referred to in paragraph 10. Where the payment service provider has information that the payee has more than one identifier, the calculation shall be made per payee.

(6) The obligation laid down in paragraph 2 shall not apply to payment services provided by the payer's payment service providers for any payment where at least one of the payee's payment service providers is located in a Member State, as resulting from the payment service provider's BIC or any other business identification code that unequivocally identifies the payment service provider and its location. However, the payer's payment service providers shall include those payment services in the calculation provided for in paragraphs 4 and 5.

(7) Where the obligation laid down in paragraph 2 applies to payment service providers, the records of:

a) are kept by the payment service provider in electronic form for a period of three calendar years from the end of the calendar year of the date of payment;

b) shall be made available to the competent tax body in accordance with Article 24b of Council Regulation (EU) No 904/2010 of 7 October 2010 on administrative cooperation and combating fraud in the field of value added tax, where Romania is a Member State of origin or a host Member State. The making available of records shall be made by means of a standard electronic form no later than the end of the month following the end of the calendar quarter to which the information relates. The end of the month following the end of the calendar quarter shall be considered to be the last calendar day of that month, even if it is a non-working day.

(8) The procedure for making available the records referred to in paragraph 7(b) shall be approved by order of the President of the National Agency for Fiscal Administration.

(9) For the purposes of paragraph 3, and without prejudice to the provisions of Chapter V of this Title, the location of the payer shall be deemed to be in the Member State corresponding to:

a) the IBAN code of the payer's payment account or any other identifier that unambiguously identifies and provides the payer's location or in the absence of such identifiers;

b) the BIC or any other business identification code that unambiguously identifies and provides the location of the payment service provider acting on behalf of the payer.

(10) For the purposes of paragraph 3, the location of the payee shall be deemed to be in the Member State, third territory or third country corresponding to:

a) the IBAN code of the payee's payment account or any other identifier that unambiguously identifies and provides the location of the payee or in the absence of such identifiers;

b) the BIC or any other business identification code that unambiguously identifies and provides the location of the payment service provider acting on behalf of the payee.

(11) Records kept by payment service providers pursuant to paragraphs 2 to 7 shall contain the following information:

a) the BIC or any other business identification code that unambiguously identifies the payment service provider;

b) the name or trade name of the payee as recorded in the records of the payment service provider;

c) if available, any VAT number or other national tax code of the payee;

d) the IBAN code or, in the absence of the IBAN code, any other identifier that unambiguously identifies and provides the location of the payee;

e) the BIC or any other business identification code that unambiguously identifies and provides the location of the payment service provider acting on behalf of the payee, where the payee receives funds without having a payment account;

f) if available, the address of the payee as recorded in the records of the payment service provider;

g) the details of any cross-border payment as referred to in paragraph 3;

h) details of any refund of a payment as identified as linked to cross-border payments referred to in point (g).

(12) The information referred to in paragraph 11(g) and (h) shall contain the following details:

a) the date and time of payment or refund of payment;
b) the amount and currency of the payment or refund of the payment;
c) the Member State of origin of the payment received by or on behalf of the payee, the Member State of destination of the refund, as the case may be, and the information used to determine the origin or destination of the payment or the refund in accordance with paragraphs 9 and 10;

d) any reference that unequivocally identifies the payment;

e) where applicable, information that the payment is initiated at the trader's physical premises.'

7. In Article 330, a new paragraph (2¹) shall be inserted after paragraph 2, which reads as follows:

“(2¹) By way of exception to the provisions of paragraph (2), in the situations referred to in Article 287(c), if the price reductions are not granted directly to the customer, the suppliers of goods and/or service providers must issue a summary document for each tax period in order to adjust the taxable amount.’

8. In Article 356, a new paragraph (4) shall be inserted after paragraph 3, which reads as follows:

By way of derogation from Article 338, the consumption of natural gas used to maintain the capacity to transport and distribute natural gas shall not be regarded as giving rise to excise duty within the limits set by the relevant regulatory authority.’

9. In Article 414¹⁰, paragraph 5 is repealed.

10. In Article 414¹⁸, paragraph 5 is repealed.

ARTICLE II

By way of derogation from Article 4(1) of Law No 227/2015 on the Fiscal Code, as amended, the provisions of this Law shall enter into force three days after the date of publication in the Official Gazette of Romania, Part I.

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The provisions of Article I(6) transpose Council Directive (EU) 2020/284 of 18 February 2020 amending Directive 2006/112/EC as regards the introduction of certain requirements for payment service providers, published in the Official Journal of the European Union L 62 of 2 March 2020.

This law was adopted by the Romanian Parliament, in compliance with Articles 75 and 76(2) of the Romanian Constitution, republished.

P. Presidents of the Chamber of Deputations, ALFRED-ROBERT SIMONIS

PRESIDENT OF THE SENATE NICOLAE-IONEL CIUCĂ

Bucharest, 4 March 2024.

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