

Microenterprise 3% tax on profit is active from 1 January 2011 - Romanian company creation

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Starting 2011, the microenterprise tax regime is reinforced. Thus, the entities which meet certain criteria (among which, it should have between 1-9 employees and should record a turnover less than EUR 100,000) may choose to pay a tax of 3% of the revenues instead of 16% corporate income tax. The entities which obtain revenues from banking, insurance and reinsurance, gambling, consultancy and management activities cannot apply this tax regime and will continue to be subject to 16% corporate income tax.

Government Emergency Ordinance No. 117 on the amendment of Law No. 571/2003 regarding the Fiscal Code (the "Ordinance") was published in the Official Gazette of Romania, Part I No. 891 on December 30th, 2010.

The Ordinance re-establishes the legal provisions regarding the tax on the incomes of microenterprises. Within the meaning of the Ordinance, the microenterprise is the Romanian legal entity which on December 31st of the previous fiscal year has met all the below mentioned requirements:

- 1 to 9 employees;
- Obtained incomes of maximum the lei equivalent of EUR 100,000;
- Its shared capital is held by persons/entities, other than the state and the local authorities.

The Romanian legal entities payers of the tax on profit may choose to pay the tax on the incomes of the microenterprises starting with the following fiscal year providing that such entities meet the above mentioned requirements and in the past were not payers of tax on the incomes of the microenterprises according to the Ordinance. In order to benefit from the legal provisions regarding the tax on the incomes of the microenterprises, the said entities have to notify their option regarding the payment of such tax to the territorial fiscal authorities on January 31st inclusive of the year for which the tax on the incomes of the microenterprises is paid at the latest. Such notification is made by submitting a statement regarding amendments to the legal entity's fiscal status.

Thus, for 2011, the Romanian legal entities may choose to pay the tax on the incomes of the microenterprises in case they met the above mentioned requirements on December 31st, 2010 and notify their option to the territorial fiscal authorities on January 31st, 2011 at the latest.

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