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FLAT TAXES FOR ROMANIA'S HOTEL, BAR AND RESTAURANT TRADE

Romania's Parliament has enacted (not without much debate) Law no. 170/2016 on activity specific taxes, cracking down on Horeca tax evasion by imposing a new flat tax on bar, restaurant, catering and hotel activities. Starting January 1, 2017, such businesses will pay a tax calculated irrespective of the volume of income and expenses, but which is determined based on a mix of zoning, seasonal and surface area parameters.

The law refers to a list of eight NACE codes¹ any of which, if mentioned in a company's Articles of Incorporation and undertaken by a business as sole income-producing activities, will trigger an obligation of that business to start paying the flat tax.

Businesses undertaking any or all of the above activities alongside other income-generating activities (for example hypermarkets, fun parks, etc.) will continue to pay income tax as per the Fiscal Code. This means that the standard Romanian 16% flat-rate income tax will continue to be applied to such businesses. The exemption shall also apply to revenue from rental or joint venture agreements concluded between resort operators and other third parties (such as tour operators/event organizers).

¹ 5510 - Hotels and similar accommodation, 5520 - Holiday and other short-stay accommodation, 5530 - Camping grounds, recreational vehicle parks and trailer parks, 5590 - Other accommodation, 5610 - Restaurants, 5621 - Event catering activities, 5629 - Other food service activities, 5630 - Beverage serving activities

Businesses owning several establishments will have to compute the tax for each business unit. Hotels and B&Bs that also run bars or restaurants alongside accommodation activities do not have to cumulate the flat tax for both the accommodation and food side of the business, granted certain independence criteria are met.

The new system may represent an opportunity for company owners to re-evaluate their business structure and reorganize activities within the company group for tax optimization purposes. Such fiscal optimizations can be achieved by corporate and operational restructuring operations that should preferably be finalized by the end of the current year.

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For additional information, please contact:



Mihai Buciuman

Senior Associate

mihai.buciuman@maravela.ro



Felix Tapai

Senior Tax Advisor

felix.tapai@maravela.ro