Romania implements tax debt restructuring and cancels tax liabilities

Less than four years after the last fiscal amnesty, on 5 August, the Romanian government published a fiscal amnesty ordinance (No. 6/2019) that sets the framework for restructuring the debt of taxpayers with outstanding tax obligations and for the cancellation of accessory obligations.

The debt restructuring measures target taxpayers' legal entities with outstanding principal tax liabilities of over RON 1 million (approx. EUR 210,000) as of 31 December 2018. The cancellation of accessory liabilities is aimed at taxpayers with outstanding principal tax liabilities of less than RON 1 million as of 31 December 2018, but certain categories of taxpayers (e.g. individuals, entities without legal personality, public institutions, etc.) recording outstanding principal tax liabilities of over RON 1 million can also benefit from this measure.

Debt restructuring

Through debt restructuring, the government is attempting to help financially burdened taxpayers avoid insolvency.

The debt restructuring measures amount to outstanding tax liabilities to the state budget as of 31 December 2018 evidenced in enforceable titles issued by the tax authority. Tax liabilities assessed by the taxpayers themselves or the tax authority after 1 January 2019 and which relate to fiscal periods until 31 December 2018 are also included.

Other outstanding liabilities, including fines, that were imposed by Romanian authorities and must be recovered by the tax authorities, can also benefit from this debt-restructuring procedure.

The practical advantage of debt restructuring is that taxpayers can be granted, among other exemptions, relief from payment of tax liabilities, including a delayed settlement of both principal and accessory liabilities, and annulment of up to 50% of their outstanding tax liabilities.

For taxpayers to benefit from these measures, amongst the conditions that must be fulfilled are: a restructuring plan combined with a prudent private-creditor test must be drafted by an independent expert, all tax compliance obligations to date must be fulfilled and the taxpayer cannot be under insolvency procedure. The ordinance also imposes obligations that the taxpayer must comply with after the restructuring plan has been accepted.

Taxpayers that intend to benefit from this measure must notify the competent tax authority in writing by 30 September 2019 and submit the request for debt restructuring by beginning of February 2020.

Cancellation of accessory liabilities

The cancellation of accessory tax obligations consists of the full write-off of interest, late payment penalties and all other accessories to the principal tax liabilities to the state budget outstanding as of 31 December 2018. The accessory tax obligations related to the principal tax liabilities assessed by the taxpayers themselves or the tax authority after 1 January 2019 having due dates until 31 December 2018 will be cancelled as well.

Similar to tax debt restructuring, this process is subject to meeting certain conditions, such as the full settlement of the principal amounts by 15 December 2019, payment of all principal and accessory tax liabilities incurred between 1 January 2019 and 15 December 2019 and fulfilment of all tax compliance obligations to date.

The request for the annulment of accessory tax liabilities should be submitted by 15 December 2019. In the meantime, the taxpayers who intend to benefit from this tax amnesty can notify the tax authority of such intention in order to postpone the payment term of accessory tax liabilities until the resolution of the cancellation request and avoid the enforcement measures. If the taxpayer does not submit the notification, it will be able to request the refund of the accessory tax liabilities that can benefit from the tax amnesty and were paid in the meantime.

Taxpayers can also benefit from the cancellation of accessory tax obligations related to tax liabilities to the local budgets if the local administrative units approve similar measures.

The Ministry of Finance will issue the implementation procedure for the debt restructuring measures and the cancellation of accessory liabilities in the following period.

*For more information on how you can apply for the tax amnesty measures detailed above, please contact **Roxana Popel**, Partner, Bucharest Head of Tax and **Andrei Tercu**, Senior Tax Manager - CMS Romania.*