

## Tax & Legal Weekly Alert

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#### Legal Updates

##### Amendments to Labour Code

On 25 of January, 2015 entered into force the last amendments to Labour Code. Among the most important amendments we mention:

- The right of employees to paid vacation even if they benefited from medical leave;
- Temporary work incapacity leave, maternity leave, maternal risk leave and sick child leave are considered performed working time;
- Interruption of paid vacation due to temporary work incapacity leave, maternity leave, maternal risk leave and sick child leave;
- Rule of granting paid vacation in proportion to the amount of time worked has been removed;
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## New provisions regarding the registration for VAT purposes; extending the applicability of the reduced VAT rate of 9% in the tourism sector.

### The new Forms 098 and 088, needed for the VAT registration of taxable persons established in Romania, were approved

On January 16, 2015 the Order no. 112 was published approving the forms 098 and 088 needed for the VAT registration of taxable persons established in Romania. The Order will be in force starting with February 1, 2015.

Form 098 does not bring significant amendments, except for the turnover to be recorded since the registration moment and until the end of the year. According with the new regulations, the turnover is compared with the entire threshold of RON 220,000 for exempt supplies, regardless of the moment of the year when the company applies for the VAT registration.

Starting with February 1, 2015, Form 088 will replace the current appendix to form 098. It will be submitted along with the request for the VAT registration, regardless of the registration method of the resident taxable person and the relevant form (098, 010 or 099).

The new Form 088 includes information similar with the one previously declared in the appendix to Form 098, but the volume and complexity of the data are higher. It includes 18 detailed questions, among which the number of the individual employment contracts concluded by the company, the education and profession of the individual associates, the activities the administrators had in the previous 12 months and others.

### Extending the applicability of the reduced VAT rate of 9% for all accommodation types

On January 20, 2015 it was published Decision no. 20 amending point 23 para. (6) of the Government Decision no. 44/2004 for the approval of the Methodological Norms for applying the Law no. 571/2003 regarding the Tax Code.

According to the new regulations, the applicability of the reduced VAT rate of 9% is extended to the following types of accommodation:

- accommodation without breakfast;
- pre-agreed package of accommodation with breakfast, sold at a single price;
- pre-arranged package of accommodation with half board (accommodation with breakfast and lunch or accommodation with breakfast and dinner), sold at a single price;
- pre-arranged package of accommodation with full board (accommodation with breakfast, lunch and dinner), sold at a single price;
- pre-arranged package of "all inclusive" accommodation, sold at a single price.

Before, the reduced VAT rate of 9% applied in the tourism sector only for accommodation services and for accommodation with breakfast included.

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## Amendments to the Labour Code

On January 20, 2015, the Romanian Parliament enacted Law no. 12/2015 amending and supplementing Law no. 53/2003 - the Labour Code. The purpose of this law is to harmonize the Romanian domestic legislation with the European provisions in the field and to clarify some aspects that have proven to be controversial in practice.

The main changes brought to the Labour Code are detailed below:

1. Amendments brought to the legal provisions concerning paid vacation

### **The right of employees to paid vacation even if they benefited from medical leave**

In accordance with the European law and court practice, employees have the right to annual paid vacation, even if they benefited from medical leave. Thus, even when an employee has been on medical leave due to temporary work incapacity for a whole year, the employer must grant him/her the annual leave over the next 18 months, starting from the year following the employee's medical leave.

### **Temporary work incapacity leave, maternity leave, maternal risk leave and sick child leave are considered performed working time**

By implementing this amendment, temporary work incapacity leave, maternity leave, maternal risk leave and sick child leave shall not affect employees' annual paid vacation entitlements.

### **Interruption of paid vacation due to temporary work incapacity leave, maternity leave, maternal risk leave and sick child leave**

If annual paid vacation is interrupted, the employee will be granted the remaining annual paid vacation after completing the medical leave, maternity leave, maternal risk leave and sick child leave. If this is not possible, the remaining annual leave shall be re-scheduled.

### **Rule of granting paid vacation in proportion to the amount of time worked has been removed**

The provision concerning the duration of annual leave has been amended by removing the rule under which annual paid vacation is granted "in proportion to the amount of time worked". Thus, the actual duration of annual paid vacation shall be agreed under the individual employment agreement or applicable collective bargaining agreements. Through this amendment, employees can be granted their entire annual paid vacation even in the first months of the year.

2. Other amendments brought to Labour Code

### **Groundless absence and unpaid leave shall be deducted from the work seniority of the employee**

By exception, the said rule shall not apply to leave for professional training.

### **Salaries of temporary employees cannot be lower than those of other regular employees undertaking the same or similar work for the beneficiary**

If the beneficiary does not have another employee performing the same or a similar job, the salary of a temporary employee shall be determined considering the salary of an employee hired under an individual employment agreement doing the same or similar work, as his/her salary is regulated under the collective bargaining agreement applicable at the level of the beneficiary.

Law no. 12/2015 was published in the Official Gazette of Romania, Part I, no. 52 on January 22nd, 2015 and came into force on January 25th, 2015.

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