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LAW 255/2018 REGARDING OFFSHORE EXPLOITATIONS FISCAL IMPLICATIONS

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1. FISCAL STATUS BEFORE LAW 256/12.11.2018

- **Same fiscal regime** for onshore / offshore gas / petroleum exploitations;
- **Royalties between:**
  - **3.5% - 13.5% for oil**
  - **3.5% - 13% for natural gas**

  with a stability clause for royalties during the entire duration of the concession agreement;
- **16% tax on profit**;
- **Super stability guaranteed** for offshore exploitations through EGO 160/1998 (no new taxes, no tax increase, benefit of tax reduction).

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2. 2016: FIRST ATTEMPT – Additional tax on petroleum activities

- **Additional tax on profit on oil and gas exploitations, but the same fiscal regime** for onshore / offshore gas / petroleum exploitations;

- Consultations were made during 2016, but **the law was not promoted**;

- **Stability clause for offshore exploitations** (EGO 160/1999) was intensely discussed, but no agreement was obtained.

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3. LAW 256/2018

- Passed by Parliament and published in the Official Gazette, practically with no consultations;
- In force from 17 November 2018.

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3. LAW 256/2018 – Main provisions

- **EGO 160/1999 was abrogated (stability clause for offshore exploitations);**

- **New tax was introduced on the ”supplementary income”** obtained by offshore gas exploitations.

3. LAW 256/2018 – New tax on supplementary income

- **Supplementary income:** the difference between the average selling price of gas (but no less than the reference price) and the reference price from 2012 (i.e. 45.71 lei/MWh);

- **Reference price:** established by the National Agency for Mineral Resources. As per Order 32/2018, the reference price is the gas price for the gas sold on the PEGAS CEGH Day Ahead Market Single Day Select, VWAP/CEGHIX Central European Gas Hub AG (CEGH).

3. LAW 256/2018 – New tax (cont.)

- Following rates apply:

30%	for the supplementary income if the price is below 85 lei / MWh
15%	for the supplementary income if the price is between 85 and 100 lei / MWh
30%	for the supplementary income if the price is between 100 and 115 lei / MWh
35%	for the supplementary income if the price is between 115 and 130 lei / MWh
40%	for the supplementary income if the price is between 130 and 145 lei / MWh
50%	for the supplementary income if the price is between 145 and 160 lei / MWh
55%	for the supplementary income if the price is between 160 and 175 lei / MWh
60%	for the supplementary income if the price is between 175 and 190 lei / MWh
70%	for the supplementary income if the price is higher than 190 lei / MWh

3. LAW 256/2018 – New tax (cont.)

- If gas is sold below the reference price, the tax is calculated based on the reference price;
- Investment is deducted from the supplementary tax, but no more than 30%;
- Supplementary tax is calculated on a monthly basis, payable by the 25th of the following month;

3. LAW 256/2018 – New tax (cont.)

- Only investments made based on investments programs approved by the NAMR can be deducted;
- No other deduction allowed → no depreciation for corporate tax purposes (non deductible expenses);
- Supplementary tax normally deductible for profit tax purposes.

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3. LAW 256/2018 – New tax (cont.)

- Calculated based on the following formula:

$$IVST = IVSC – VID$$

$$IVSC = ISO\_85 = 30*US\_85$$

$$VS\_85 = (PMPC – PRC)*VGC$$

$$VID = \min (VI, 30\%*IVSC)$$

IVST = tax on due supplementary income
IVSC = tax on calculated supplementary income (without investment deduction)
ISO_85 = tax on supplementary income calculated for the first interval (PMPC ≤ 85 lei / MWh)
US_85 = supplementary income calculated for the first interval (PMPC ≤ 85 lei / MWh)
PMPC = average weighted sale price for gas or the reference price, as the case may be
VGC = volume of exploited gas
VID = value of deductible investment
VI = total value of investment minus monthly deducted investment

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4. CONCLUSIONS

- **Significant additional tax, but only for offshore exploitations** (not onshore);
- **Stability clause disregarded** → no guarantees that no other changes will be made in the future;
- **With one exception, no decisions were made to continue investment in exploitation** → gas stays on the bottom of the Black Sea;
- **Possible litigations? ICSID?**

Thank you!

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