

Clients & Friends Alert

October 2015

Summary

Emergency Ordinance no. 44 ("Ordinance") on granting certain tax concessions was published in the Official Gazette no. 785 of 21 October 2015.

This regulates the partial cancellation of the accessory tax obligations – **delay penalties and a 54.2% share of late payment interest** – and the conditions to be fulfilled in this respect, related to the following principal tax liabilities:



(i) Principal tax liabilities due to the general state budget, outstanding on 30 September 2015

The following conditions should be fulfilled cumulatively:

- a. All principal obligations outstanding on 30 September 2015 are paid in any manner provided for by law until and including 31 March 2016;
- b. The 45.8% share of late payment interest set out through decisions issued until the date of settlement of the principal tax liabilities provided for under letter a. is settled in any manner set forth by law until and including 31 June 2016;
- c. The 45.8% share of the late payment interest due until the date of settlement of the principal tax liabilities provided for under letter a. and set out through decisions issued after this date, is settled in any manner set forth by law within the time limit specified in art. 111 para. (2) of the Fiscal Procedure Code (the 5th day of the following month, if the decision is issued between 1st and 15th of the month, respectively the 20th of the following month if the decision is issued between 16th and 31st of the month);

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- d. All principal tax liabilities due between 1 October 2015 and 31 March 2016 including are settled in any manner provided for under the law until the date of submission of the request for cancellation of penalties and interest;
- e. The taxpayer must file all tax returns, according to the tax records, until the date of submission of the request for cancellation of penalties and interest;
- f. The taxpayer submits the request for cancellation of penalties and interest until and including 30 June 2016, under the penalty of losing this right.
- b. The 45.8% share of late payment interest related to the principal tax liabilities due before 30 September 2015 and paid up to that date is settled in any manner provided under the law until and including 31 March 2016;
- c. The taxpayer files the request for cancellation of penalties and interest until and including 30 June 2016, under the penalty of losing the right.

(ii) Additional payment obligations resulting from rectifying tax returns which correct the principal tax liabilities due before 30 September 2015

The following conditions should be fulfilled cumulatively:

- a. The rectifying tax return is submitted until and including **31 March 2016**;
- b. All principal tax liabilities indicated in the rectifying tax return are paid in any manner provided under the law until and including **31 March 2016**;
- c. The conditions under point (i) letter b. – f. above are fulfilled.

(iii) Principal tax liabilities due until 30 September 2015 and paid up to that date

The following conditions should be fulfilled cumulatively:

- a. The delay penalties and interest which may be subject to cancellation are due and unpaid on and including 30 September 2015;

(iv) Principal tax liabilities due until and including 30 September 2015 and specified in tax decisions issued following a fiscal inspection ongoing on the date when the Ordinance comes into force

The following conditions should be fulfilled:

- a. All additional principal tax liabilities specified in the tax decision are paid in any manner provided under the law within the time limit set under art. 111 para. (2) of the Fiscal Procedure Code;
- b. The 45.8% share of interest related to the obligations under letter a. is settled in any manner provided under the law within the time limit set under art. 111 para. (2) of the Fiscal Procedure Code;
- c. The request for cancellation of penalties and interest is submitted within 90 days as of the issuance of the tax decision, under the penalty of losing the right.

In case of tax inspections which will begin after the coming into force of the Ordinance, in order to grant the cancellation provided under point (ii), the tax authorities shall consider the rectifying tax returns filed in no more than 10 days as of the coming into force of the Ordinance.

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Procedurally, the taxpayers intending to benefit from the cancellation of penalties and interest according to the Ordinance may notify the competent tax authority, no later than the date of submission of the request for cancellation. The result of the notification is the postponement of the payment of the delay penalties and 54.2% share of interest, based on a decision of the tax authority, as well as the suspension of the enforcement of such payment obligations. The decision to postpone the payment is no longer valid on the date of issuance of the decision to cancel the penalties and interest, or on 30 June 2016, in case the taxpayer does not submit the request for cancellation of penalties and interest.

The provisions of the Ordinance are also applicable to taxpayers which, on 30 September 2015, benefit from rescheduling of tax obligations.

The taxpayers which, on and including 31 March 2016, have pending reimbursement claims for which, after such date, the tax authority rejects the reimbursement, in whole or in part, benefit from the cancellation of penalties and interest if they pay the tax obligations on which the cancellation depends, unpaid by offset with the amounts specified in the reimbursement claim, within 30 days as of the date of issuance of the decision rejecting the reimbursement.

The provisions of the Ordinance may also apply to payment obligations due to local budgets, based on a decision of the local council. In such case, the cancellation concerns a share of **up to 73.3%** of the delay increases. The decision of the local council shall also approve the procedure for granting the cancellation.

The procedure for application of the Ordinance will be approved within 30 days as of its coming into force.

Should you require additional information do not hesitate to contact our colleagues here at Biriş Goran.

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