



Fiscal Council's Opinion on the legislative proposal for amending and complementing the Government Emergency Ordinance no. 226/2020 on some fiscal-budgetary measures and for amending and complementing some normative acts and extending certain deadlines - b409/2021

On September 30, 2021, the Fiscal Council received the address of the Romanian Senate no. XXXV/4575 dated 20.09.2021, by which it is requested, in accordance with the provisions of the Fiscal Responsibility Law no. 69/2010 republished (FRL), the opinion on a legislative proposal for amending and complementing the Government Emergency Ordinance no. 226/2020 on some fiscal-budgetary measures and for amending and complementing some normative acts and extending certain deadlines - b409/2021.

In what concerns this request, the provisions of art. 21 of the FRL are relevant, according to which: *"in cases where proposals are made for normative acts that lead to a decrease in budgetary revenues, the financial statement will be prepared according to the provisions of art. 15 of Law no. 500/2002, as subsequently amended and complemented, which must meet at least one of the following conditions:*

- a) *to have the approval of the Ministry of Public Finance and the Fiscal Council, according to which the financial impact has been taken into account in the budget revenue forecast and does not affect the annual and medium-term budgetary targets;*
- b) *to be accompanied by proposals for measures to compensate for that financial impact, by increasing other budgetary revenues."*

Brief description of the legislative proposal

The legislative proposal subject to examination by the Fiscal Council envisages the exemption from the application of the VAT rate for deliveries of face masks type NK95/FFP2 made until December 31, 2022. In the explanatory memorandum, the proposal is argued by the fact that the use of facial masks with a high degree of protection by the entire population becomes an act of general interest, and their purchase price must be affordable.

Budgetary impact of the proposal

Without being accompanied by the financial statement in which the budgetary impact was supposed to be assessed, the explanatory memorandum to the legislative proposal presents the conclusions of several studies on the role of masks in preventing the infection with the SARS-CoV-2 virus, as well as an analysis of the potential beneficial impact that the universal wearing of the mask could have had on the US economy. Considering a potential decrease in the number of infections, days of sick leave and the risk of closing the economic activities, in the explanatory memorandum it is considered that the budgetary impact of the legislative proposal would be positive.

Assessment of the Fiscal Council regarding the legislative proposal

- Regarding the opportunity of the legislative proposal, the Fiscal Council has no attributions in deciding because the establishment of measures to fight the COVID-19 pandemic represents the prerogative of the Parliament, the Government or of other institutions.
- Regarding the compliance with the provisions of art. 21 of the FRL, previously described, the Fiscal Council has the following observations:
 - The legislative proposal is not accompanied by the financial statement in which its impact on the general consolidated budget is presented. The explanatory memorandum states that the budgetary impact would be positive, without presenting detailed assessments in this regard.
 - In order to meet the premises for the issuance of the Fiscal Council's endorsement, it is necessary that:
 - The proposal must be accompanied by an estimated impact on the budget revenue forecast, together with indicating the elements that lead to the achievement of the annual and medium-term budgetary targets, or
 - The proposal must be accompanied by measures to compensate for the respective financial impact, by increasing other budget revenues.
 - In the absence of a financial statement or a complete budgetary projection showing that the legislative proposal does not affect the annual and medium-term budgetary targets, and given that no measures are established to compensate for the financial impact of the legislative proposal on the general consolidated budget, the Fiscal Council cannot endorse this legislative proposal.
 - However, the Fiscal Council agrees with the argument that, in the event that such a measure leads to an increase in the purchase of facial masks by the population, there is a favorable impact on economic activity, by reducing the number of infections with the SARS-CoV-2 virus.

The opinions and recommendations formulated above by the Fiscal Council were approved by the Chairman of the Fiscal Council, according to the provisions of art. 56, para (2), letter d) of Law no. 69/2010 republished, after being agreed by Council members, through vote, in the meeting of October 13, 2021.

October 13, 2021

Chairman of the Fiscal Council

Professor DANIEL DĂIANU