

Fiscal Council's opinion on the draft Government Ordinance for the amendment and completion of Law no. 227/2015 regarding the Fiscal Code, the repeal of some normative acts and other fiscal measures

On July 13th, 2022, the Fiscal Council received the address of the Ministry of Finance (MF) no. 741302/13.07.2022, by which it is requested, based on art. 53 paragraph (2) letter f) of Law no. 69/2010 of the republished Fiscal Responsibility Law (FRL), with subsequent amendments and additions, the opinion on the draft Government Ordinance to amend and supplement Law no. 227/2015 regarding the Fiscal Code, the repeal of some normative acts and other fiscal measures and regarding the Supporting Note accompanying it.

The Law no. 69/2010 provides in article 53 para. (2) lit. f) as one of the attributions of the Fiscal Council "the preparation of estimates and the issuance of opinions both regarding the budgetary impact of draft normative acts, other than those mentioned in letter e), as well as regarding the amendments made to the annual budgetary laws during the parliamentary debates".

Consequently, the Fiscal Council considers in this opinion exclusively the budgetary impact of the draft Government Ordinance estimated by the Ministry of Finance in the Background Note.

The Fiscal Council evaluates only the measures from the draft Government Ordinance that are accompanied by estimates regarding the budgetary impact.

Brief description of the legislative proposal

The legislative proposal subject to examination by the Fiscal Council envisages several amendments and additions to Law no. 227/2015 on the Fiscal Code, the most important, from the perspective of the expected budgetary impact, being the following:

- Increasing the dividend tax rate, from 5% to 8%, for dividends distributed between Romanian legal entities and for those distributed to non-residents, as well as for income from dividends made by resident natural persons, including the gain obtained as a result of holding securities participation in collective investment bodies. The Ministry of Finance has estimated that this measure will have an impact of +1.83 billion lei on budgetary revenues from 2023. The Fiscal Council considers the budgetary impact estimated by the Ministry of Finance for this measure as plausible;
- Reduction of the income ceiling obtained in the previous year by micro-enterprises, from 1,000,000 euros to 500,000 euros. At the same time, the condition is established that micro-enterprises have at least one employee, thus eliminating the 3% tax rate and maintaining

the 1% rate. According to the MF estimates, the impact of these measures will be 1.54 billion lei on the budgetary revenues from 2023. The Fiscal Council appreciates the budgetary impact estimated by the MF for this measure as plausible;

- Reduction of the ceiling up to which fiscal facilities are granted in the field of construction, the agricultural sector and the food industry, from 30,000 lei per month to 10,000 lei per month. The Ministry of Finance has estimated that this measure will have an impact of +0.2 billion lei on budgetary revenues from 2022, respectively +0.4 billion lei on budgetary revenues from 2023. The Fiscal Council appreciates the budgetary impact estimated by the Ministry of Finance for this measure as plausible;
- Reduction of the ceiling up to which taxpayers determine their annual net income based on income norm, from 100,000 euros to 25,000 euros. According to MF estimates, the budgetary impact of this measure is insignificant;
- The introduction of a monthly ceiling of non-taxable income, of no more than 33% of the basic salary, for income from salaries and incomes assimilated to salaries. According to MF estimates, the budgetary impact of this measure is insignificant;
- Revision of the system of granting personal deductions for taxpayers who earn income from wages, the impact of this measure being estimated by the Ministry of Finance at -2.5 billion lei on budgetary revenues from 2023. The Fiscal Council appreciates the budgetary impact estimated by the Ministry of Finance for this measure as plausible;
- Establishing the taxable income at the level of gross income for the income from the transfer of the use of goods, other than the income from the lease and from the rental for tourist purposes of the rooms located in personally owned homes. According to MF estimates, this measure will have a budgetary impact starting in 2024;
- Changing the income tranches of the tax scale used to determine the tax on gambling income. The Ministry of Finance has estimated that this measure will have an impact of +0.2 billion lei on budget revenues from 2022, respectively +0.5 billion lei on budget revenues from 2023. The Fiscal Council appreciates the budgetary impact estimated by the Ministry of Finance for this measure as plausible;
- Changing the tax rates applicable to the transaction value for the transfer of ownership of buildings and land, as well as the elimination of the non-taxable ceiling of 450,000 lei, representing the deduction from the transaction value when determining taxable income. According to the MF estimates, the impact of these measures will be +0.6 billion lei on the budgetary revenues from 2023. The Fiscal Council appreciates the budgetary impact estimated by the MF for this measure as plausible;

- Changing the ceilings applicable to the annual calculation base of SSC (pensions and health), in the case of people who earn income from independent activities, income from intellectual property rights and/or other income categories. These measures will be applied starting with the revenues related to the year 2023, generating a budgetary impact starting from the year 2024;
- Exclusion, starting from 1st of January 2023, from the scope of the 9% reduced VAT rate facility, of non-alcoholic beverages containing added sugar or other sweeteners or flavored. According to MF estimates, the impact of this measure will be +0.8 billion lei on budgetary revenues from 2023. The Fiscal Council appreciates the budgetary impact estimated by the MF for this measure as plausible;
- The application, starting from 1st of January 2023, of the reduced VAT rate of 9%, both for the delivery of food intended for human and animal consumption, as well as for restaurant and catering services and for hotel accommodation activities. The Ministry of Finance has estimated that this measure will have an impact of +0.6 billion lei on budgetary revenues from 2023. The Fiscal Council considers the budgetary impact estimated by the Ministry of Finance for this measure to be plausible;
- The restriction, starting from 1st of January 2023, of the scope of the reduced VAT rate of 5% for the delivery of housing to individuals, in the sense that they benefit from the facility only once for a single housing whose value does not exceed 600,000 lei, excluding VAT. According to MF estimates, the impact of this measure will be +0.6 billion lei on budgetary revenues from 2023. The Fiscal Council appreciates the budgetary impact estimated by the MF for this measure as plausible;
- The establishment of a new calendar regarding the level of excise duties on products subject to the harmonized excise regime with an impact estimated by the Ministry of Finance of +0.5 billion lei on budgetary revenues from 2022, respectively +1.1 billion lei on budgetary revenues from 2023. The Fiscal Council appreciates the budgetary impact estimated by the MF for this measure as plausible;
- Increasing the excise duty level for alcohol and alcoholic beverages starting on 1st of August 2022, with an impact estimated by the Ministry of Finance of +0.03 billion lei on the budgetary revenues from 2022, respectively +0.08 billion lei on the budgetary revenues from 2023; the Fiscal Council appreciates the budgetary impact estimated by the MF for this measure as plausible;
- Establishing a new way of calculating the taxable value for residential/non-residential buildings and introducing additional rules regarding the determination of tax on buildings. The Ministry of Finance estimated that these measures will have an impact of +3.9 billion lei on the budgetary revenues from 2023, without substantiating data;

- Repealing, starting on 1st of January 2023, of Law no. 170/2016 regarding the specific tax for certain activities, with an impact estimated by the Ministry of Finance of +0.2 billion lei on budgetary revenues from 2023. The Fiscal Council appreciates the budgetary impact estimated by the Ministry of Finance for this measure as plausible;

Assessment of the Fiscal Council regarding the total budgetary impact of the proposal

The package of measures proposed in the draft Government Ordinance to amend and supplement Law no. 227/2015 on the Fiscal Code has a budgetary impact assessed in the explanatory note attached to the draft Ordinance at 1.2 billion lei in 2022, 10.6 billion lei in 2023 and 13.5 billion lei/annual average in period 2024-2026. In the case of almost all the analyzed measures, the Fiscal Council considers the budgetary impact estimate of the MF to be plausible under the conditions of the projected macroeconomic framework. A notable exception, however, is represented by the change in the method of calculating the tax on buildings, in the case of which the Fiscal Council cannot pronounce on the plausibility of the budgetary impact due to the unavailability of data. It should be pointed out that this measure is expected to have an important budgetary impact, namely about 3.9 billion lei per year.

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, paragraph (2), letter d) of Law no. 69/2010 republished, after being agreed by Council members, through vote, in the meeting of August 4, 2022.

August 4, 2022

Chairman of the Fiscal Council

Professor DANIEL DĂIANU