



Fiscal Council's Opinion on the legislative proposal for amending and completing the Law no. 227/2015 on the Fiscal Code – b416/2021

On October 18, 2021, the Fiscal Council (FC) received the address of the Romanian Senate no. XXXV/4700 dated 27.09.2021, by which it is requested, in accordance with the Fiscal Responsibility Law no. 69/2010 republished (FRL), the opinion on a legislative proposal amending and completing the Law no. 227/2015 on the Fiscal Code (the proposal no. b 416/2021)

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 increasing the excise duty on heated tobacco products to a level equal to 75% of the value of the excise duty applied to cigarettes. The explanatory memorandum argues that such an increase would bring additional revenues to the state budget and tax the different categories of tobacco products offered to consumers at comparable levels.

At the same time, the legislative proposal aims to change the basis for calculating the excise duty from kilograms to pieces, taking into account a simplification of the calculation method of excise duties for economic operators and institutions with control responsibilities.

Budgetary impact of the proposal

Given that the proposal aims to increase the excise duty on heated tobacco products, the explanatory memorandum states that this would have a positive budgetary impact.

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 the modalities of taxation of tobacco products, respectively of calculating the excise duties related to them, represent the prerogative of the Parliament and the Government.
- Regarding the compliance with the provisions of art. 21 of the FRL, presented above, the Fiscal Council finds that it is not necessary to prepare a financial statement because the legislative proposal aims to increase budgetary revenues.
- Considering the observance of the provisions of the FRL regarding the proposals of normative acts with impact on budget revenues, the Fiscal Council endorses the legislative proposal.

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 November 23, 2021.

November 23, 2021

Chairman of the Fiscal Council

Professor DANIEL DĂIANU