

TAX ALERT



NEWSLETTER | No. 20 - 25 August 2010

Latest Obligations of Natural Entities Obtaining Professional Income, Other than Salary-related, to Declare and Pay Contributions to the Social Security, Health Insurance and Unemployment Insurance Funds

Concurrently with the entry into force of Government Emergency Ordinance No. 58 / 2010, regarding the obligations of natural entities achieving professional income other than salary-related to pay contributions to the Social Security, Health Insurance and Unemployment Insurance Funds, the obligation of these entities to declare such contributions to the relevant institutions has also become apparent.

To this effect, the National Employment Agency, the National Pension Agency and the National Healthcare Agency have published additional information on their Websites, regarding the obligations of the abovementioned entities to pay and declare the said contributions. Please find herein below a summary thereof.

Latest Obligations of Natural Entities Obtaining Professional Income Other than Salary-related to Declare and Pay Contributions to the Social Security, Health Insurance and Unemployment Insurance Funds

In compliance with the provisions of Art. III (2) of Government Emergency Ordinance No. 58 / 2010, amending and supplementing Law No. 571 / 2003, regarding the Tax Code, and introducing other tax and financial measures ("GEO 58 / 2010"), **authorised natural entities shall pay individual contributions to the Social Security, Health Insurance and Unemployment Insurance Funds.**

The applicable individual contribution rates are provided under Art.5 (2) of Annex 2 to the Methodological Norms for the Application of Art.III of GEO 58 / 2010 amending and supplementing Law No.571 / 2003, regarding the Tax Code, and introducing other tax and financial measures, approved under Government Resolution No.791 / 2010, as follows:

- **10.5%** in the case of the contribution to the Social Security Fund (CAS)
- **5.5%** in the case of the contribution to the Health Insurance Fund (CASS)
- **0.5%** in the case of the contribution to the Unemployment Insurance Fund.

Social Security Contribution

▶▶ The **calculation basis** for social security contributions comprises:

- a) the achieved monthly net income, but no more than the equivalent of five (5) average gross salaries per the economy, in respect to recurrent (monthly, quarterly or half-yearly) professional income, obtained under the conditions set forth in Art.3 (1) or (2) of GEO 58 / 2010;
- b) the achieved annual net income, but no more than the equivalent of five (5) average gross salaries per the economy, in respect to occasional professional income, as stipulated under Art.3 (1).

Important!: According to the Communiqué of the National Pension Agency, referring to GEO 58 / 2010, published on the aforesaid institution's Website (*i.e.* <http://www.cnpas.org>) on 24 August 2010, in the case of single entry accounting, the **achieved net income** shall be determined as the difference between the gross income and the deductible expenses related to such income, in compliance with the provisions of the Tax Code, while in the case of the annual income standards, it is determined on the basis of such standards.

Note: *The average gross salary per the economy amounts to RON 1,836.*

- ▶▶ This contribution shall be **declared** to the pension agency in the territory in which the insured has his/her domicile by the 25th of the month following the month in which the professional income has been achieved.
- ▶▶ The **Insurance Declaration** Form has been published under Art.7 of Annex 2 to Government Resolution No.791 / 2010 approving of the Methodological Norms for the Application of Art.III of GEO 58 / 2010 which amends and supplements Law No.571 / 2003, regarding the Tax Code, and introduces other tax and financial measures:

DECLARAȚIE DE ASIGURARE

privind asigurarea în sistemul public de pensii și alte drepturi de asigurări sociale a persoanelor fizice care realizează venituri de natură profesională, altele decât cele salariale, pentru care se datorează contribuția individuală de asigurări sociale, conform art. III din Ordonanța de urgență a Guvernului nr. 58 / 2010 pentru modificarea și completarea Legii nr. 571 / 2003 privind Codul fiscal și alte măsuri financiar – fiscale.

Nr. din ziua , luna , anul

1. Numele și prenumele asiguratului:

2. Cod numeric personal:

3. Adresa de domiciliu sau de reședință:

Localitatea:

Strada:

Nr. Bloc: Scara: Etaj: Apart.

Of. poștal: Județ: Sector:

Telefon:

4. Actul de identitate: Seria Nr.

- ▶▶ The social security contribution must be **paid** by the 25th of the month following the month in which the professional income has been achieved to the Social Security Fund having classification number 22210304v- *Contribuția altor persoane asigurate* [Contribution of Other Insured Entities], followed by the Tax Identification Number of each County Pension Agency, the Territorial Pension Agencies having the obligation to communicate the number of the account to which such contribution should be paid, while the Payment Order should compulsorily contain the paid amount and the PIN of the insured.

Important: *With a view to avoiding double taxation of the same professional income achieved by the same individual, the National Pension Agency specifies that the social security contribution related to such income shall not be paid twice in the same month for a Declaration lodged both under Law No.19 / 2000 and according to Art.III of GEO 58 / 2010.*

Clarifying references are made to independent activities generating income from freelancing, as well as to copyright and related rights as defined under Law No.8 /1996 regarding copyright and connected rights that may not be reclassified as dependent activities.

Freelancers have the obligation to get insured in compliance with GEO 58 / 2010, by submitting the Insurance Declaration displayed above.

Health Insurance Contribution

- ▶▶ The **calculation basis** for health insurance contributions comprises the monthly net professional income determined as the difference between the gross income and the deductible expenses related to the achieved income, being limited to the equivalent of five (5) average gross salaries per the economy, the value of which may not be lower than the national gross minimum salary if such income is the only one to which the contribution rate is applied.
- ▶▶ The health insurance contribution applicable to professional income must be **declared** on the terms specified by Law No.95 / 2006, as amended and supplemented, as follows:
 - **authorised physical persons:** quarterly, by the 15th of the last month in the quarter;
 - **individuals obtaining income from copyrights and under civil partnership agreements:** annually, by the 25th of January in the year following the year in which payment is performed.
- ▶▶ The **Health Insurance Declaration** Form has been published on the Website of the National Health Insurance Agency (*i.e.* <http://www.cnas.ro>):

ANEXA

AGENȚIA NAȚIONALĂ PENTRU OCUPAREA FORȚEI DE MUNCĂ

AGENȚIA PENTRU OCUPAREA FORȚEI DE MUNCĂ A JUDEȚULUI { } /
MUNICIPIULUI BUCUREȘTI

DECLARAȚIE

privind asigurarea în sistemul asigurărilor pentru șomaj a persoanelor fizice care realizează venituri de natură profesională, altele decât cele salariale, pentru care se datorează contribuția individuală la bugetul asigurărilor pentru șomaj, conform art. III alin. (2) din Ordonanța de urgență a Guvernului nr. 58/2010 pentru modificarea și completarea Legii nr. 571/2003 privind Codul fiscal și alte măsuri financiar-fiscale

Nr. { } din ziua { } luna { }, anul { } *

1. Numele și prenumele asiguratului: { }

2. Cod numeric personal (CNP): { }

3. Adresa de domiciliu sau de reședință:

Localitatea: { }

Strada: { }

- ▶ The unemployment insurance contribution must be **paid** by the 25th of the month following the month in which the professional income has been achieved.

IMPORTANT!!! : Criteria for dependent activities

The criteria according to which an activity may be reclassified as being dependent in compliance with Art.7 (1), point 2.1 of the Tax Code have been referred to in **Tax Alert Mazars No.19 / 4 August 2010**.

!!! RECOMMENDATION:

For any details regarding the Treasury accounts to which the abovementioned contributions should be paid, as well as the related methods of payment, we recommend that you should inquire into the official Websites of the relevant institutions based in the territory in which you have your domicile/residence.

Tax Alert contains a selection of the latest major issues occurred in the Romanian legislative framework, is intended only to provide information and, hence, shall not be deemed to provide professional advice or consultancy.

Therefore, we assume no responsibility in this respect.

Should you require any information related to the foregoing, please do not hesitate to contact us.

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