

REGULATION OF THE INCOME TAX OF MICROENTERPRISES

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Abstract

Entities owe profit tax or microenterprise income tax, direct taxes applied on the income earned. A microenterprise income tax payer is a legal entity that opts and fulfills a series of conditions, the most important being the turnover, which must not exceed the equivalent in lei of 500,000 euros. The microenterprise income tax is declared and paid quarterly, up to and including the 25th of the month following the quarter for which the tax is calculated, by applying the rate of 1% or 3% on the incomes that constitute the tax base. Late payment attracts interest and late penalties that are determined according to the amount owed, the level of interest, the penalty and the number of days of delay.

Keywords: *tax, income, microenterprise, interest, turnover,*

Clasificare JEL : *M41, H30*

1. Introduction and context of the study

The microenterprise income tax was introduced starting on 01.09.2001 [10-11]. During this period (2001-2023), the system of taxation on the income of micro-enterprises was affected by a series of changes in the tax legislation [4-9]. Thus, there were periods when the microenterprise income tax was mandatory and periods when it was optional. For the year 2024, the taxation system of micro-enterprises has been significantly modified, the new provisions will enter into force on January 1, 2024. Next, we will present the provisions regarding the tax on the income of micro-enterprises which will be in force starting with 2024 year.

2. Microenterprise conditions

A micro-enterprise is a Romanian legal entity that cumulatively fulfills, on December 31 of the previous fiscal year, the following conditions [4]:

- achieved income that did not exceed the equivalent, in lei, of 500,000 euros, calculated at the year-end course. The incomes that will be taken into account are the incomes made by the Romanian legal entity, cumulated with the incomes of the related enterprises;
- the share capital must be owned by persons other than the state and units administrative-territorial;
- the income obtained from the activities carried out, less those from consulting, are at least 80% of total revenues. An exception is the income obtained from tax consultancy;
- has at least one employee;
- has associates or shareholders who directly or indirectly own more than 25% of the value or number of shares in a single Romanian legal entity that applies the provisions on the income tax of micro-enterprises;
- submitted the annual financial statements on time;

- is not in dissolution, followed by liquidation, registered in the trade register or at the courts.

The following taxpayers cannot opt for the payment of microenterprise income tax:

- Deposit guarantee fund in the banking system;
- Investment compensation fund;
- The private pension guarantee fund;
- The insured's guarantee fund;
- Fiscally transparent entity with legal personality;
- Legal entities carrying out activity in the banking field;
- Romanian legal entity carrying out activities in the field of insurance and reinsurance, of the capital market, intermediation or distribution activities in these areas and who have achieved income from insurance or reinsurance activity in a proportion greater than 15% of total income.

3. Determining and declaring the microenterprise income tax due

The micro-enterprise income tax is applied, by option, by legal entities starting from the fiscal year following the one in which they meet the mentioned micro-enterprise conditions and if they were not micro-enterprise income tax payers after January 1, 2023.

The newly established Romanian legal entity can declare and pay the microenterprise income tax if:

- the condition regarding the ownership of the social capital by persons other than the state and administrative-territorial units;
- the number of entities that apply this tax and in which the shareholders or associates hold, directly or indirectly, more than 25% of the value of the number of shares or voting rights, are fulfilled on the date of registration in the trade register. This mention is included in the registration application.

It also has the obligation, within 30 days from the date of registration of the legal entity, to hire at least one employee.

Entities that are temporarily inactive remain in the microenterprise income tax system for the entire period of inactivity. When resuming the activity, it is mandatory to verify the fulfillment of the conditions for the application of the tax on the incomes of micro-enterprises.

The tax rates on the income of micro-enterprises are [9]:

- 1%, for micro-enterprises with a turnover of up to 60,000 euros, inclusive;
- 3%, for micro-enterprises that:
 - have achieved a turnover of more than 60,000 euros, or
 - carries out, among others, one or more main activities or secondary in HoReCa, IT, legal activities, healthcare and health respectively:
 - o Hotels and other similar accommodation facilities;
 - o Accommodation facilities for holidays and short periods;
 - o Caravan parks, campsites and camps;
 - o Other accommodation services;
 - o Restaurants;
 - o Food activities (catering) for events;
 - o Other food services n.e.c.;
 - o Bars and other activities serving drinks;
 - o Computer game editing activities;
 - o Editing activities of other software products;
 - o Custom software creation activities (customer-oriented software);
 - o Other service activities regarding information technology;
 - o Legal activities – only professional companies with legal personality, established by lawyers according to the law;
 - o General healthcare activities;
 - o Specialized medical assistance activities;
 - o Dental assistance activities;
 - o Other health-related activities.

The revenues, in euros, recorded are determined cumulatively from the beginning of the year, the exchange rate used is the one valid at the end of the previous financial year.

The tax rate will be 3% also if, during the quarter, a micro-enterprise exceeds the threshold of 60,000 euros or starts to carry out one or more of the aforementioned activities. The transition to the 3% rate applies starting from the respective quarter.

A micro-enterprise can return, during the fiscal year, to the 1% rate if it no longer carries out any of the activities presented above and does not exceed the threshold of 60,000 euros in taxable income. This transition is carried out starting with the quarter in which such situations are recorded.

For micro-enterprises that carry out other activities, apart from those that determine the application of the 3% rate, this rate is also applied to the taxable income obtained from these activities.

The taxable income base is determined by subtracting the non-taxable income (Vn) from the total income (Vt) and possibly adding the following :

- the amount of commercial discounts received after invoicing, recorded in account 609 "Commercial discounts received";

- in the fourth quarter or in the last quarter of the taxable period, if applicable taxpayers who cease to exist, the favorable difference between the income from exchange rate differences/financial income related to receivables and payables with settlement depending on the exchange rate of a currency, the results of their evaluation or settlement and the expenses from exchange rate differences/related financial expenses;

- reduced or canceled reserves, except for those representing fiscal facilities;

- the reserves, representing fiscal facilities, established during the period when the micro-enterprise was a profit tax payer.

The income tax on micro-enterprises is determined as follows [4]:

$$I_{vm} = (V_t - V_n + R_c + D_{cv} + R) \times \text{tax rate},$$

where: I_{vm} = microenterprise income tax;

V_t = total revenues;

V_n = non-taxable income;

R_c = commercial discounts;

D_{cv} = exchange rate differences;

R = reserves.

Non-taxable income is as follows:

- revenues related to product inventory costs;
- revenues from the production of tangible and intangible assets;
- revenues related to the costs of services in progress;
- revenues from subsidies;
- income from provisions, adjustments for depreciation or for losses of value, which were non-deductible expenses when calculating the profit tax or were established during the period when the entity was subject to the micro-enterprise income tax;

- income from adjustments for expected losses related to assets financial entities established by Romanian legal entities that carry out activities in the banking, insurance and reinsurance field, of the capital market, which were non-deductible expenses when calculating the taxable profit or which were established during the period when the entity was subject to the micro-enterprise income tax;

- the income obtained from the restitution or cancellation of interest and/or penalties of delay, which were non-deductible expenses when calculating the taxable profit;

- income from compensation, from insurance/reinsurance companies, for the damages caused to goods of the nature of stocks or own tangible assets;

- income from exchange rate differences;

- financial income related to receivables and payables with settlement according to the exchange rate of a currency, results from their evaluation or settlement;
- the amount of commercial discounts granted after invoicing, recorded in account 709 "Commercial discounts granted";
- the income related to the payment titles obtained by the entitled persons, accordingly the law, initial holders in the records of the Central Commission for the Determination of Compensations or their legal heirs;
- compensations received based on the decisions of the European Court of Human Rights;
- revenues obtained from a foreign state with which Romania has concluded an agreement to avoid double taxation, if they were taxed in the foreign state;
- dividends received from a Romanian legal entity.

The determination and payment of the tax on the income of micro-enterprises is carried out quarterly, until the 25th of the month following the quarter for which the tax is calculated, by which date micro-enterprises have the obligation to submit form 100 "Declaration regarding payment obligations to the state budget".

If during a fiscal year a micro-enterprise achieves revenues greater than 500,000 euros, it owes profit tax, starting with the quarter in which this limit was exceeded. The same applies to entities that no longer meet the conditions for classification as a micro-enterprise.

For the determination of the profit tax, for these entities, the incomes and expenses realized starting from the respective quarter are taken into account.

Entities that meet the conditions for micro-enterprises owe micro-enterprise income tax starting from the year following the year in which they meet the conditions.

4. Case study

For the accounting registration of the income tax of micro-enterprises use account 4418 "Income tax". This account has a liability accounting function [8]. The credit of the account provides information on the income tax owed by the micro-enterprise, by correspondence with the debit of the account 698 "Expenses with income tax and other taxes". At the same time, the credit of the analyzed account records information that refers to the income tax related to previous years in case of correction of accounting errors, through the corresponding account 117, "Carried forward result".

The debit of account 4418 reflects information regarding the amounts settled to the state budget by correspondence with the credit of account 5121 "Bank accounts in lei", as well as the amounts prescribed, exempted or canceled from income tax, through the creditor correspondent account 758., Other operating revenues.

The balance can be a credit if the entity owes income tax or a debit when payments have been made in excess of the taxes owed.

A commercial company, with limited liability, has as its object of activity the obtaining of bakery products that are sold to customers and through its own stores. In the first quarter, it will achieve the following revenues:

• income from the sale of finished products	= 172,000 lei
• income from the sale of residual products	= 11,200 lei
• revenues related to product inventory costs	= 510,000 lei
• income from the sale of goods	= 437,500 lei
• revenues from the production of tangible assets	= 49,000 lei
• income from exchange rate differences	= 16,000 lei
TOTAL REVENUE	= 1,195,700 lei

The number of employees is 25 people. The commercial company meets the conditions of a micro-enterprise and is obliged to determine, declare and pay the business income tax at a percentage of 3% applied to the tax base, since the turnover is greater than 60,000 euros.

Tax base = 1,195,700 – (510,000 + 49,000 + 16,000) = 1,195,700 - 575,000 = 620,700 lei.

Tax on the income of micro-enterprises = 620,700 x 3% = 18,621 lei.

The microenterprise income tax for the first quarter, due, is 18,621 lei. The deadline for paying the tax is April 25. Since the payment of the obligation is made on May 10, the entity owes interest and late penalties, as follows:

- interest = 18,621 lei x 16 days x 0.02% = 59.58 lei

- late payment penalties = 18,621 lei x 16 days x 0.01% = 29.76 lei

The accounting entries are as follows:

• microenterprise tax due:

698	=	4418	18,621
"Income tax expenses and other taxes"		"Income"	
• paying the tax:			
4418	=	5121	18,621
"Income tax"		"Bank accounts in lei"	
• interest and late payment penalties due:			
6581	=	4481	89.34
"Compensations, fines and penalties"		"Other debts towards the state budget"	
• payment of interest and late penalties:			
4481	=	5121	89.34
"Other debts towards the state budget"		"Bank accounts in lei"	

5. Conclusions

The microenterprise income tax is calculated by applying a percentage (1% or 3%) on the taxable base. The basis of calculation is represented by the realized income from which the non-taxable income is subtracted, to which is added the value of commercial discounts from account 609 "Commercial discounts received" and the favorable exchange rate differences from the fourth quarter or the last quarter of the taxable period and the value of reserves.

If the ceiling for micro-enterprises is exceeded, respectively 500,000 euros the profit tax is paid.

It is recommended for companies that have little expenses or profitability is around 20% or more. Accounting costs are low, and the calculation of microenterprise income tax is simple, easy to do.

As disadvantages, we mention the fact that companies that register losses must also pay this tax or if there is a loss carried forward, it is not compensated in order not to owe tax on the income of micro-enterprises.

Microenterprises that meet the legal conditions can opt to pay microenterprise income tax.

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