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The Ministry of Finance has issued a series of implementing obligations related to natural persons and legal entities that are not subject to Income Tax when they transfer the ownership of their property, to the tax rate that corporations should apply on their apportionments and to enterprises which have the obligation to deduct the tax of Article 51 of Law 497/2003.

The procedure related to the obligations of natural persons and legal entities that are not subject to the Income Tax when they transfer the ownership of their property, stipulated the following:

Whereas Law 64 of 20/10/2017, published in the Official Gazette on 26/10/2017, by virtue of Article 13 of the same law, has imposed an Income Tax rate of 15% on the dividends resulting from the transfer of ownership of properties owned by natural persons and legal entities that are not subject to the Income Tax or that have enjoyed permanent, special or exceptional exemptions from that tax, or owned by natural persons who are subject to the Income Tax, given that properties are not assets needed for the exercise of the profession,

Whereas the same article exempted from the abovementioned tax the dividends resulting from the transfer of ownership of the primary residences of a natural person, given that they do not exceed 2 residences,

Whereas the same article requires the deduction of 8% from the dividends resulting from the transfer of ownership for each completed year between the date of acquisition of the property and the date of transfer of ownership,

Whereas the abovementioned persons and entities have the obligation to declare any transfer of ownership and settle the relevant due tax within two months from the date of transfer, using the forms developed by the Ministry of Finance for that purpose. Otherwise, they will be subject to the following fines stated in Law 44 of 11/11/2008 (Tax Procedures Code): 5% of the value of the due tax for each month of late filing and 1% of the value of the tax, to which is added the verification fine for each month of late payment.

Therefore,

The Ministry of Finance calls the attention of the persons concerned by Law 64/2017 to the importance of fulfilling their abovementioned obligations when transferring the ownership of their properties as of 27/10/2017 in order to avoid being subject to fines.

As for the procedure related to the tax rate that corporations should apply on apportionments they make as of 27/10/2017, it stipulated the following:

Whereas Law 64 of 20/10/2017, published in the Official Gazette on 26/10/2017, has annulled the paragraph added by virtue of Article 25 of Law 173 of 14/02/2000 (2000 Budget Law) to Article 72 (bis) of Legislative Decree 144 dated 12/06/1959 and its amendments (Income Tax Law) which was amended by virtue of Article 1 of Law 254 of 30/12/2000 and corrected by virtue of Law 302 dated 03/04/2001,

Therefore, the Ministry of Finance would like to inform corporations that meet the conditions and cases stated in the abovementioned Article 25 and that used to benefit from a reduced rate of 5% on the apportionments of their dividends, that they should adopt, as of 27/10/2017, a tax rate of 10% on dividends they decide to apportion.

Concerning the obligation related to enterprises which have to deduct the tax of Article 51 of Law 497/2003 amended by Law 64 of 20/10/2017 and declare it, as well as settle it to the Treasury, it stipulated the following:

Whereas Law 64 of 20/10/2017, published in the Official Gazette on 26/10/2017, has increased the tax rate on interests, dividends and revenues that are subject to tax according to the dispositions of Article 51 of Law 497/2003 from 5% to 7%,

Whereas each enterprise should, before settling the abovementioned interests, dividends and revenues, deduct the relevant due tax and pay it to the Treasury in monthly installments within fifteen days from the end of the month for which the deduction took place,

Therefore, the Ministry of Finance would like to inform the enterprises which have to deduct the tax of Article 51 of Law 497/2003 of the obligation to calculate the tax due on interests, dividends and revenues that are subject to this tax according to the dispositions of this article, as follows:

The period during which the due tax is calculated on interests, dividends and revenues shall be divided into two:

- On the basis of a 5% rate for the period extending till 26/10/2017 included
- On the basis of a 7% rate as of 27/10/2017

The Ministry of Finance would like also to call the attention of taxpayers, subject to the Income Tax according to the Real Profit Method and who benefit from interests, dividends and revenues that are subject to Article 51 amended, to the importance of complying by including them in total within their benefits, while including the relevant paid tax within their deductible charges.

The Ministry of Finance would like, as well, to call the attention of taxpayers subject to the Income Tax according to the Lump Sum Method by virtue of Article 44 of the Income Tax Law, to the importance of complying by adding these interests, dividends and revenues, after deduction of the Article 51 tax paid for them, to their revenues and applying the Lump Sum Method specific to their activity in order to extract the net profit subject to the Income Tax.

