

MICRO-ENTERPRISE INCOME TAX

Associate Professor, Ph.D., Florin-Constantin DIMA

“Constantin Brâncoveanu” University of Pitești, Romania

E-mail: dimaflorin_constantin@yahoo.com

Professor, 1st Degree, Claudia Andreea GROSARU

”Armand Călinescu” Technical College Pitești, Romania

E-mail: andreea.grosaru@yahoo.com

***Abstract:** The drafting of this article started from the need to correctly determine the result of exercise of microenterprises in our country. The result of the exercise is one of the most important indicators of the performance of economic entities. The tax regime of micro-enterprises is advantageous for the economic entities that fall within its scope. It is therefore very important to know the criteria that must be met for an economic entity to fall into this category, as well as how to get out of this category. At the same time, we need to consider the taxation mechanism in the framework of the micro-enterprise income tax in order to be able to determine correctly, from a tax point of view, the tax due and the result for the year.*

***Keywords:** microenterprise, income, expenses, tax result, microenterprise income tax.*

***JEL Classification:** M41.*

1. Taxable persons

Micro-enterprises are represented by Romanian legal entities that on 31 December 2023 cumulatively meet the following conditions:

- have earned income that did not exceed the equivalent in lei of €500,000 at the BNR exchange rate valid at the end of the financial year in which the income was recorded;
- their share capital is held by natural and/or legal persons other than the State and its administrative-territorial units;
- it is not in dissolution, followed by liquidation, registered in the commercial register or with the courts, in accordance with the law;
- more than 80% of its income is derived from activities other than consultancy and/or management;
- has at least one full-time employee or its equivalent;
- has associates/shareholders holding more than 25% of the value/number of shares or voting rights in no more than three Romanian legal entities that qualify for the microenterprise income tax system.

The equivalent of a full-time employee is represented by the following accepted options:

- they have people employed on individual part-time contracts if the sum of the part-time working hours is the equivalent of a full-time working day
- they have concluded management or agency contracts, with remuneration at least at the level of the minimum gross salary.

(The number of the existing employees is checked at the end of the last month of the quarter in question)

Legal entities classified as micro-enterprises can opt for micro-enterprise income tax starting from the fiscal year following the one in which they meet the micro-enterprise conditions if they have not been paying micro-enterprise income tax after January 1, 2023.

Newly established legal entities may opt to pay income tax on micro-enterprises from the first tax year if they meet the condition related to the holders of the share capital and, within 30 days of establishment, employ at least one full-time employee or its equivalent.

2. Tax rates

The income of micro-enterprises is taxed in 2024 at the following rates:

- 1% for micro-enterprises with revenues not exceeding €60,000 inclusive and which do not carry out activities covered by the Tax Code at the 3% tax rate;
- 3% for micro-enterprises that exceed the threshold of €60,000 in income or that earn income from main or secondary activities expressly provided for by the Tax Code as falling under the 3% tax rate, such as publishing and software development, accommodation and restaurant activities, etc.

If the revenue achieved by a micro-enterprise exceeds the threshold of €60,000 during the year, it is taxed at the 3% tax rate starting from the quarter in which the value threshold was exceeded.

3. The scope of the tax on the income of micro-enterprises

Income from any source is included in the scope of the microenterprise income tax, from which the following is deducted:

- revenue relating to the costs of stocks of products, services in the course of execution;
- revenue from the production of tangible and intangible fixed assets;
- revenue from subsidies;
- income from provisions and adjustments for impairment or loss of value, irrespective of the type of taxation at the time of establishment;
- income arising from the repayment or cancellation of interest and/or penalties for late payment which were non-deductible expenses in the calculation of taxable profit;
- income from compensation from insurance companies – reinsurance for damage to stocks/assets, ECHR compensation);
- income from exchange rate differences;
- value of trade discounts granted after invoicing (recorded in account 709 “Trade discounts granted”);
- income from dividends received from a Romanian legal person;
- income obtained from a foreign state with which Romania has a double taxation agreement, if it has been taxed in the foreign state.

For the purpose of determining the income tax on micro-enterprises, the following shall be added to the tax base:

- the value of trade discounts received after invoicing, recorded in account 609 “Trade discounts received”;
- the favourable exchange rate difference recorded cumulatively since the beginning of the year (credit balance on account 765 “Income from exchange rate differences” + RC 768 “Other financial income” – RD 665 “Expenses from exchange rate differences” – RD 668 “Other financial expenses”) - in the calculation of the fourth quarter;
- legal reserves or revaluation reserves reduced or cancelled, initially deducted in the calculation of taxable profit and not taxed during the period in which the micro-enterprises were also liable for corporation tax - regardless of the reason (change in the purpose of the reserve, distribution to shareholders in any form, liquidation, division, merger, etc.);
- reserves representing tax relief, set up during the period when micro-enterprises were also liable for corporation tax – used to increase paid-up subscribed capital, cover losses, distribute to shareholders, etc.

4. Exit from the income tax system for micro-enterprises

Exiting the income tax system for micro-enterprises can be achieved as follows:

- when the income of a micro-enterprise exceeds €500,000 during a year, in which case the micro-enterprise becomes liable for corporate income tax from the quarter in which the limit was exceeded, taking into account the income and expenses incurred in that quarter;
- when income from consultancy and/or management exceeds 20% of the total income;
- when the micro-enterprise no longer has at least one full-time employee or the equivalent for a period of not more than 30 days;
- by option, when micro-entities with a share capital of at least 45,000 lei and at least 2 employees may opt to fall within the scope of the corporate income tax, with the proviso that this option is definitive and the calculation and payment of corporate income tax is made from the quarter in which these conditions are cumulatively met;
- if the shareholding structure changes during the year, in the sense that parts of the share capital become owned by the State or its administrative-territorial units, or if the partners/shareholders of a micro-enterprise hold more than 25% of the share capital of another micro-enterprise (in which case they have to choose only one micro-enterprise to pay income tax);
- the micro-entity has gone into dissolution, followed by liquidation, registered in the commercial register or with the courts, according to the law.

5. Determination of microenterprise income tax due

In order to illustrate the mechanism for determining the income tax payable by micro-enterprises, we will start from the situation of S.C. Orion S.R.L., which was incorporated on 5 June 2023 with the main activity “retail sale of footwear and leather goods”, CAEN code 4772, and which presents the following statement of income and expenditure for 2023:

Indicators	Quarter II (June 2022)	Quarter III (July - September 2022)	Quarter IV (October - December 2022)
Income from sale of goods	600.000	1.620.000	5.200.000
Income from royalties, management leases and rentals	100.000	100.000	300.000
Income from exchange rate differences		8.000	12.000
Income from claims from a transport insurance company		12.000	30.000
Income from operating subsidies	10.000	10.000	15.000
Income from the release of provisions for litigation			17.000
TOTAL	710.000	1.750.000	5.574.000
Expenditure on goods	400.000	1.300.000	4.100.000
Expenditure on services provided by third parties	15.000	90.000	250.000
Social expenses	3.000	3.000	10.000
Expenditure on salaries	10.000	150.000	200.000
Expenditure on labour insurance contributions	25	375	500

Expenditure on sponsorship of an association registered in the register of religious entities/units			10.000
Expenditure on the member's travel to a ski resort for personal reasons			15.000
Expenditure on fuel		8.000	10.000
Expenditure on depreciation of means of transport		2.125	4.500
Expenditure on depreciation of fixed assets		3.000	3.000
Expenditure on exchange rate differences		6.000	11.000
Expenditure on provisions for litigation		17.000	
TOTAL	428.025	1.579.500	4.614.000

The amounts relate to each quarter separately.

Upon its establishment S.C. Orion S.R.L. is a company liable for income tax on micro-enterprises. The share capital is 50.000 lei. S.C. Orion S.R.L. has, since its establishment, 1 employee with a full-time individual contract of 8h/day. In July it employs 2 full-time employees. In August it purchases a commercial space and a car, and in October a second car, which are used both for business and other purposes. The sole partner of the company is Constantin Ion. The company complies with the provisions of Law 31/1990 on the obligation to set up a legal reserve and in December transfers 5% of the annual gross profit to the legal reserve.

Determination of income/profit tax

Taxable income	2nd Quarter	3rd Quarter	4th Quarter
Turnover	700.000	1.720.000	5.500.000
TOTAL (from the beginning of the year)	700.000	2.420.000	7.920.000
Test < 500.000 euro / 4.948.100 lei	Yes	Yes	NO
Tax base in the quarter in question	700.000	1.720.000	
Income tax	21.000	51.600	

Calculation of the 3% income tax rate in the second quarter:

$$700.000 \text{ lei} \times 3\% = 21.000 \text{ lei}$$

Calculation of the 3% income tax rate in the third quarter:

$$1.720.000 \text{ lei} \times 3\% = 51.600 \text{ lei}$$

In the 4th quarter the company exceeds the turnover of €500.000 (500.000 EURO x 4,9481 lei/EURO = 2.474.050 lei) and becomes liable for income tax. From this quarter onwards, the company is liable for corporation tax, determined according to the specific tax rules:

Total income	5.574.000
Total expenditure	4.614.000
Gross profit	960.000

Non-deductible expenses	
Fuel expenses	5.475
Social expenses	1.000
Expenditure on sponsorship of an association registered in the Register of religious entities	10.000
Expenditure on travel to a ski resort by an associate on his/her own behalf	14.000
Expenditure on depreciation of means of transport	4.500
Expenditure on depreciation of real estate	3.000
TOTAL non-deductible expenses	37.975
Tax depreciation deduction	7.500
Legal reserve deduction	10.000
Total tax deductions	17.500
Taxable profit	980.475
Income tax before sponsorship	156.876
Sponsorship	10.000
Income tax after deduction of sponsorship	146.876

1) Fuel expenses: 10.000 lei, related VAT 1.900 lei

According to Law 227/2015 only 50% of the VAT on fuel expenses is tax deductible, i.e. 950 lei. This results in a total fuel expenditure of 10,950 lei (10,000 + 950).

Fuel expenses deductible in the calculation of corporation tax = $10,950 \times 50\% = 5,475$ lei

It also follows that 5,475 lei are non-deductible fuel expenses for the calculation of corporation tax.

2) *Social expenses = 11.000 lei*

Limit = $5\% \times 200.000 = 10.000$ lei

Non-deductible expenses = $11.000 - 10.000 = 1.000$ lei

3) *Accounting expenses with car depreciation = 4.500 lei*

Deduction limit $1500 \text{ lei} \times 3 \text{ months} \times 2 \text{ cars} = 9.000$ lei

It follows that the amount of 4,500 lei is fully included in the tax deductions.

4) *Legal reserve*

The legal reserve is deductible up to 20% of the share capital

$50,000 \times 20\% = 10,000$ lei

$960,000 \times 5\% = 48,000$ lei

5) *Taxable profit: $960,000 + 37,975 - 17,500 = 980,475$ lei*

6) *Income tax: $980,475 \times 16\% = 156,876$ lei*

7) *Sponsorship: 10.000 lei*

$156.876 \times 20\% = 31.375$ lei

$5.500.000 \times 0,75\% = 41.250$ lei

It follows that the amount of 10,000 lei relating to sponsorships is fully deductible from the income tax due.

8) *Final corporation tax: $156,876 - 10,000 = 146,876$ lei*

6. Conclusions

The calculation of the tax result and income tax of micro-enterprises is one that requires good knowledge of the legal provisions in the field of taxation as well as good professional judgement. In determining the tax result, the activity carried out by the

enterprise in question and the structure of the income and expenditure during the tax year must be analysed rigorously.

It is worth pointing out that the tax system for micro-enterprises is favourable to them because the tax rates of 1% and 3% on the income making up turnover are very low.

It should also be noted that from the 2023 financial year onwards, when a micro-enterprise leaves the scope of the micro-enterprise income tax, it cannot return to this tax regime.

References:

1. Accounting Act No 82/1991, republished in the Official Gazette No. 454/2008, republished, with subsequent amendments and additions.
2. Law No. 227/2015 on the Fiscal Code, published in the Official Gazette No. 688/2015, republished, as amended and supplemented.
3. Order of the Minister of Public Finance No. 1802/2014 approving the Accounting Regulations on individual annual financial statements and consolidated annual financial statements, published in the Official Gazette No. 963/2014, as amended and supplemented.
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