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## REPORT

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From: General Secretariat of the Council  
To: Delegations  
Subject: Code of Conduct Group (Business Taxation)  
- Report to the Council

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### Romania's measure on Reduction of income tax for maintain / increasing own capital (RO011)

#### I. Background

1. In 2021, the Group concluded that Romania's reduction of income tax to maintain/ increase own capital (RO011) did not need to be assessed.
2. The measure is of a general nature, applying to all taxpayers with the aim of addressing the difficult liquidity situation caused during the COVID-19 crisis. It is a temporary measure, covering the tax years 2021-2025. It pursues a similar objective as the Notional Interest deduction (NID) measures assessed by the Group, which is to encourage taxpayers to maintain/ increase the company's own capital and avoid financing through debt.
3. However, the policy reasons for its introduction and its design<sup>1</sup> are different and the measure is scheduled to apply only temporarily. The Group agreed that its future application, and therefore the economic effects should nevertheless be monitored.

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<sup>1</sup> The measure operates like a tax credit (no carry forward, non refundable)..  
The maximum reduction as of 2022 is 15% of the income tax due (2% +3% + max 10%) if  
a taxpayer meets all the requirements regarding the increases in adjusted own capital.  
Before 2022, the maximum reduction is 12% (2% + max 10%), if all other requirements are met

## II. Preliminary assessment

4. We recall that the RO011 measure – differently from a classical NID, which reduces the tax base, operates as a tax credit, and provides for a reduction of the annual corporate income tax due. The tax credit amounts to:
  - a. 2% for taxpayers which register a positive accounting of own capital (equity capital) declared in the annual financial statements at the end of the tax year when the income tax is due;
  - b. 3% for taxpayers which register an annual increase of adjusted own capital above a certain level in the year in which the income tax is due compared to the reference year 2020; this measure applies as of 2022;
  - c. 5% - 10% for the taxpayers which register increases of adjusted own capital in the tax year in which the tax is due compared to the previous tax year, in accordance with the increase of fiscally adjusted own capital under the law. This measure applies as of 2022.
5. The reductions in a., b. and c. are cumulative. If two or three of the reductions provided are applicable, the percentages corresponding thereto shall be summed up to determine the value of the reduction and the resulting value shall be applied on the tax.
6. Thus, the maximum reduction as of 2022 is 15% of the income tax due (2% +3% + max 10%) if a taxpayer meets all the requirements regarding the increases in adjusted own capital.
7. The reduction of tax due is only applicable if there are taxable profits. It cannot create losses, nor can it be carried forward. Financial and banking institutions are excluded from the measure.
8. Based on the data communicated by Romania regarding the use of the measure for the tax year 2021, it appears that it had a wide application, with a total of **215.140 taxpayers** having used it, the majority of such taxpayers qualifying as micro enterprises<sup>2</sup> (87%).
9. The Romanian authorities did not provide data broken down by category of taxpayer (domestic, foreign or foreign-owned). Given the widespread use of the measure, collecting such data would entail a considerable administrative burden. The Romanian authorities however committed to provide additional data in the future, in particular, by sector of activity.
10. From the information made available to the Group so far, it arises that the general average tax benefit per taxpayer was RON 5 700 (around EUR 1 200)<sup>3</sup>, while the **average benefit per taxpayer according to the size** of the taxpayer was:
  - a. For taxpayers subject to profit tax<sup>4</sup> : RON 39 700 (around EUR 8.000);
  - b. For taxpayers subject to tax on PEs: RON 9 800 (around EUR 2.000);
  - c. For microenterprise income taxpayers<sup>5</sup>: RON 530 (around EUR 110);
  - d. For specific taxpayers<sup>6</sup>: RON 2 600 (around EUR 550).

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<sup>2</sup> Yearly revenues less than EUR 500.000 (according to the definition in Article 47 in the Romanian Tax Code).

<sup>3</sup> 1 EUR: 4.8 RON.

<sup>4</sup> CIT 16% on net profits.

<sup>5</sup> 1% on turnover - yearly revenues less than EUR 500.000.

<sup>6</sup> Specific taxpayers are taxpayers operating in the HORECa sector (hotels, restaurants, catering) and which are subject to the specific tax (substitute for corporate tax), based on notional bases.

11. In light of the data provided, and in particular the general use of the measures and the amount of the average tax benefit which ranged from EUR 500 – to EUR 8 000, the Commission Services are of the view that so far, the RO011 measure has not affected the business location among Member States in a significant way.
12. In order to be able to confirm whether the uptake remains stable and at low amounts, the measure should continue to be monitored. In this context, the additional information promised by the Romanian authorities will be taken into account.

### **III. Follow-up:**

- i. The Group agreed with the preliminary conclusion that the **RO011 regime** does not seem to have affected the business location among the Member States in a significant way.
- ii. The Group agreed that it should continue looking into the effects in the next year's monitoring exercise.

**Annex: Romania – RO011 - Reduction of income tax<sup>7</sup> for maintain/ increasing own capital [2021 CoCG decision]**

<b>Romania– RO011</b>	<b>2021</b>
Total number of taxpayers benefitting from the measure	<ul style="list-style-type: none"> <li>• profit tax payers – 28 267</li> <li>• profit tax payers for permanent establishments – 6</li> <li>• microenterprise income tax payers – 186 488</li> <li>• specific tax payers – 379</li> </ul> <p>TOTAL taxpayers – 215 140</p>
Out of which directly or indirectly foreign owned companies:	-
Global amount of NID granted/ reduction of income tax granted	<ul style="list-style-type: none"> <li>• profit tax payers – 1 123 003.825 lei</li> <li>• profit tax payers for permanent establishments – 59 009 lei</li> <li>• microenterprise income tax payers – 98 939 684 lei</li> <li>• specific tax payers – 997 837 lei</li> </ul> <p>TOTAL global amount of NID granted/ reduction of income tax granted - 1.223.000.355 lei</p>

<sup>7</sup> The measure operates like a tax credit (no carry forward, non refundable)..

The maximum reduction as of 2022 is 15% of the income tax due (2% +3% + max 10%) if a taxpayer meets all the requirements regarding the increases in adjusted own capital. Before 2022, the maximum reduction is 12% (2% + max 10%), if all other requirements are met

Total tax expenditure ( <i>at 16% CIT rate</i> )	-
<i>Average amount of NID allowance/ reduction of income tax</i>	-
Total tax expenditure attributable to directly or indirectly foreign owned	-
<i>Average NID tax expenditure/ reduction of income tax attributable to directly or indirectly foreign owned</i>	-

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