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REPORT

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

Monitoring fiche: Romania - RO011 - Reduction of income tax for maintaining or increasing own capital [2021 CoCG decision]

I. Background

1. In 2018, the Group concluded that Romania's reduction of income tax, to maintain or increase own capital (RO011), did not need to be assessed. 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. In addition, the measure is temporary, for tax years 2021-2025.
2. Measure RO11 pursues a similar objective as the NID measures assessed in the past, which is to encourage taxpayers to maintain or increase the company's own capital and avoid financing through debt. However, the policy reasons for the introduction of this measure and its design are different.
3. The Group agreed that the future application of the measure, and thus its economic effects, should be monitored.

II. Preliminary assessment

4. The measure, differently from a classical NID which reduces the tax base, operates as a tax credit. It provides for a reduction of the annual corporate income tax due at a maximum 15%¹.
5. The reduction of tax due is only applicable if there are taxable profits. It cannot create losses, nor can it be carried forward, or refunded. Financial and banking institutions are excluded from the measure.
6. During the 2025 monitoring exercise, Romania communicated the data regarding the use of the measure for tax year 2024. So far, the Group has received a set of data covering four tax years (2021-2024).
7. In view of the data provided, the measure continued to apply widely (general application), and the uptake remained stable at around 340 000 taxpayers. The foreign-owned taxpayer represented around 5% of the total number of taxpayers.
8. Throughout the period, a high majority of taxpayers were micro enterprises, i.e. yearly revenue below EUR 500 000 (90% in 2022, 60% in 2023 and 47% in 2024).
9. The general average² tax benefit per taxpayer remained at a very low level:
 - a. RON 6 000 in 2022 (around EUR 1 200),
 - b. RON 7 500 in 2023 (around EUR 1 500)
 - c. RON 7 700 in 2024³ (around EUR 1 500).

¹ a. 2% for taxpayers which register a positive accounting 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 year in which the tax is due compared to the previous year, according to the percentage of increase of fiscally adjusted own capitals under the law.

The reductions in a., b. and c. are cumulative. 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 was 12% (2% + max 10%), if all other requirements are met.]

² The overall NID benefit divided by the total number of taxpayers benefitting of the measure.

³ From RON 5.700 in 2021.

10. The **specific average⁴ tax benefit per type of taxpayer⁵** has been also at very low levels:
- a. For taxpayers subject to profit tax:
 - i. RON 58.000 (around EUR 11 800) in 2022;
 - ii. RON 18 000 (around EUR 3 600) in 2023 and
 - iii. RON 13 700 (around EUR 2 700) in 2024;
 - b. For taxpayers subject to tax on Permanent Establishments (PE):
 - i. RON 32000 (around EUR 6 500) in 2022;
 - ii. RON 20000 (around EUR 4 000) in 2023 and
 - iii. RON 90 000 (around EUR 18 000);
 - c. For microenterprise income taxpayers:
 - i. RON 490 (EUR 100) in 2022;
 - ii. RON 560 (around EUR 115) in 2023, and
 - iii. RON 1 000 (EUR 200) in 2024;
 - d. For specific taxpayers:
 - i. RON 4000 (EUR 800) in 2022,
 - ii. RON 0 (around EUR 0) in 2023 and 2024.
11. While the general and the specific average tax benefit per taxpayer have slightly increased, the benefit remains low in absolute figures.
12. The Romanian authorities also engaged in providing data broken down by category of taxpayer (foreign-owned or domestic taxpayers).
13. The overall number of foreign or foreign owned taxpayers – regardless of the type of tax they are subject to - represented 7% in 2021 and remained at below 6% in the period 2022 - 2024. The foreign (owned) taxpayers *subject to profit tax* represented 2.3%, 1.7% and 3.2% and 3.8% of the overall number of taxpayers in 2021, 2022, 2023 and 2024 respectively.
14. From the information provided, the trend appears to be confirmed, and the measure has been used widely, mostly by taxpayers qualifying as micro-enterprises. The share of foreign (owned) taxpayers is very low.

⁴ The amount of NID benefit for a specific type of taxpayer divided by the number of taxpayers benefitting in that category.

⁵ EUR 1: around RON 4.9 RON / RON 5.

15. In light of the data and in particular the general use of the measures and the low amount of the average tax benefit, 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.
16. After four years of data, the Commission Services can conclude that the uptake remained stable and the tax benefit at a low level. Moreover, the measure will stop applying end of 2025.
17. It is thus the Commission Services' view that the monitoring can be terminated.

III. Follow-up

18. The Group agreed that the monitoring of the measure should be terminated.
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Romania – RO011 - Reduction of income tax for maintaining or increasing own capital [2021 CoCG decision]

Romania– RO011	2021	2022	2023	2024 (data if available)
Total number of taxpayers benefitting from the measure	<ul style="list-style-type: none"> profit taxpayers – 28 267. profit taxpayers for PEs – 6. microenterprise income taxpayers – 186 488. specific taxpayers (Horeca) – 379. <p>TOTAL taxpayers – 215 140</p>	<ul style="list-style-type: none"> profit taxpayers – 31 888 profit taxpayers for PEs – 4. microenterprise income taxpayers – 301 898. specific taxpayers (Horeca) – 321. <p>TOTAL taxpayers – 334 111</p>	<ul style="list-style-type: none"> profit taxpayers – 133 193 profit taxpayers for PEs – 5. microenterprise income taxpayers – 204 871. specific taxpayers (Horeca) – 0. <p>TOTAL taxpayers – 338 069</p>	<ul style="list-style-type: none"> profit taxpayers – 180 220 profit taxpayers for PEs – 224. microenterprise income taxpayers – 165.311. <p>TOTAL taxpayers – 345 755</p>
Out of which directly or indirectly foreign owned companies: ⁶	<ul style="list-style-type: none"> profit taxpayers – 5 087 profit taxpayers for PEs – 0. microenterprise income taxpayers – 10 079. specific taxpayers (Horeca) - 38 	<ul style="list-style-type: none"> profit taxpayers – 5 736 profit taxpayers for PEs – 0. microenterprise income taxpayers – 14606. specific taxpayers (Horeca) - 35 	<ul style="list-style-type: none"> profit taxpayers – 10 874 profit taxpayers for PEs – 0. microenterprise income taxpayers – 9 087 specific taxpayers (Horeca) - 0 	<ul style="list-style-type: none"> profit taxpayers – 13 237 profit taxpayers for PEs – 224. microenterprise income taxpayers – 6.570
Global amount of NID granted/ reduction of income tax granted	<ul style="list-style-type: none"> profit taxpayers– RON 1 123 003 825 profit taxpayers for PEs – RON 59 009 microenterprise income taxpayers – RON 98 939 684 specific taxpayers – RON 997 837 <p>TOTAL - RON 1 223 000 355</p>	<ul style="list-style-type: none"> profit taxpayers – 1 855 900 268 profit taxpayers for PEs – RON 129 689 microenterprise income taxpayers – RON 150 068 216 specific taxpayers – RON 1 290 751 <p>TOTAL RON 2 007 388 924</p>	<ul style="list-style-type: none"> profit taxpayers – RON 2 444 168 020 profit taxpayers for PEs – RON 101 075 microenterprise income taxpayers – RON 114 443 105 specific taxpayers – 0 <p>TOTAL - RON 2 558 712 200</p>	<ul style="list-style-type: none"> profit taxpayers – 2 479 253 405 RON profit taxpayers for PEs – 20 379 807 RON microenterprise income taxpayers – 168 964 163 RON <p>TOTAL – RON 2 668 597 375</p>

⁶ Additional information provided subsequently by Romanian authorities, on 5 October 2023.

Total tax expenditure (at 16% CIT rate)	-			
<i>Average amount of NID allowance/ reduction of income tax per taxpayer⁷</i>	<ul style="list-style-type: none"> For taxpayers subject to profit tax : RON 39700 (around EUR 8000); For taxpayers subject to tax on PEs: RON 9 800 (around EUR 2000); For microenterprise income taxpayers: RON 530 (around EUR 110); For specific taxpayers: RON 2 600 (around EUR 550). 	<ul style="list-style-type: none"> For taxpayers subject to profit tax : 58 000 RON (around EUR 11 800); For taxpayers subject to tax on PEs: RON 32 000 (around EUR 6 500); For microenterprise income taxpayers: 490 RON (around EUR 110); For specific taxpayers: 4 000 RON (around 800 EUR). 	<ul style="list-style-type: none"> For taxpayers subject to profit tax : RON 18 000 (around EUR 3 600); For taxpayers subject to tax on PEs: RON 20 000 (around EUR 4 000); For microenterprise income taxpayers: 560 RON (around EUR 115); For specific taxpayers: 0 RON (0 EUR). 	<ul style="list-style-type: none"> For taxpayers subject to profit tax: RON 13 750 (around EUR 2 700); For taxpayers subject to tax on PEs: RON 90 000 (around EUR 18 000); For microenterprise income taxpayers: RON 1 000 (around EUR 200);
Total tax expenditure attributable to directly or indirectly foreign owned	Not provided			
<i>Average NID tax expenditure/ reduction of income tax attributable to directly or indirectly foreign owned</i>				

⁷ Computed by the Commission services based on the data provided: The amount of NID benefit for a specific category of taxpayer divided by the number of taxpayers benefitting in that category.