

Sponsorship

Tax incentives for community projects

October 2024

From the perspective of corporate social responsibility, sponsorships, which are governed by specific legal provisions, demonstrate involvement and support for the community in which a company operates. They have become increasingly popular among all parties involved (i.e. the authorities, employees, shareholders, customers, suppliers etc.). Sponsorship can also enhance a company's reputation and can hence contribute to its further development.

The tax benefits of sponsorship

The Sponsorship Law and the Romanian Fiscal Code allow companies to sponsor NGOs, for which they can benefit from a tax facility within certain limits. The tax incentive is granted through the tax credit mechanism and, in practical terms, allows the sponsor to redirect a part of its corporate tax due to the state budget to sponsor a non-profit organization or institution.

Legislative updates from 1 January 2024 on sponsorship

According to GEO 115/2023, changes were made to the sponsorship mechanism for taxpayers paying tax on microenterprises. Changes were also made affecting corporate income taxpayers, particularly those which are required to pay the minimum tax on turnover (as set out in Law 296/2023). Specifically:

- 1 Since 1 January 2024, micro-enterprises have no longer been able to benefit from the tax facility related to sponsorships, nor have they been able to apply for tax redirection. The abolition of this facility also means that they no longer need to file the sponsorship beneficiary informative return (i.e. Form 107).
- 2 Since 1 January 2024, for corporate income taxpayers, a change was introduced in relation to the deadline for submitting the redirection form (Form 177), which has now been modified to coincide with the deadline for submitting the annual corporate income tax return (i.e. the 25th of the 6th month after the end of the fiscal year).

Moreover, those corporate income taxpayers which are liable to pay the minimum turnover tax may no longer ask

the Tax Authority to redirect their corporate income tax. However, they are still able to deduct from the minimum turnover tax the sponsorships granted during the year, in accordance with the law and within the limits set out in the Fiscal Code.

According to Art. 181 paragraph (1) of the Fiscal Code, certain corporate taxpayers will have to make a comparison between the corporate tax and the minimum tax on turnover, calculated according to the current rules. For the purpose of this comparison, the quarterly/annual profit tax is the profit tax before deduction of the amounts according to the law, adjusted as follows: the corporate income tax is decreased (under certain limitations) by amounts representing sponsorship, other amounts deducted from the profit tax according to special laws, as well as the reduction of the profit tax according to GEO 153/2020. As a result of the comparison, these taxpayers are required to pay corporate income tax at the level of the minimum tax on turnover.

- 3 Order 3562/2024 of The National Agency of Fiscal Administration establishes the new procedure for applying for redirection of corporate income tax using Form 177. The amount to be redirected is determined by subtracting from the minimum amount referred to in Art. 25 (4) letter (i) of the Fiscal Code, the amounts already allocated for sponsorship to eligible entities for the relevant year, as reported in the annual CIT return, including the amounts carried over, if any. The Order also specifies that *in situations where corporate income tax is due at the level of the minimum tax on turnover, taxpayers may not order the redirection of corporate income tax assessed at the level of the minimum tax on turnover.*

Conditions for granting sponsorship

To benefit from these tax incentives, sponsorship must meet the conditions set out in Law No 32/1994 on sponsorship, as subsequently amended, and must be carried out based on a sponsorship contract that can be made available to the Tax Authorities in the event of a tax inspection.

Sponsorship can be granted to:

- a. A non-profit legal entity, which operates in Romania or is about to carry out an activity in the following fields: cultural, artistic, educational, scientific research, humanitarian, religious, philanthropic, sports, human rights protection, medical and health related, assistance and social services, environmental protection, social and community, representation of professional associations, or maintenance, restoration, conservation and enhancement of historical monuments.
- b. Public institutions and authorities, including specialized bodies of public administration, for the activities mentioned in point a);
- c. TV shows or programs of television or radio broadcasting organizations, as well as books or publications in the fields mentioned in point a);
- d. Any individual domiciled in Romania whose activity in one of the fields provided at point a) is recognized by a non-profit legal entity or by a public institution operating in the field for which the sponsorship is requested.

The cumulative conditions to benefit from this facility are:

- Sponsorships must be justified by contracts concluded in accordance with the legal provisions and the amount must be paid in the period for which the profit tax is paid;
- The beneficiaries of the sponsorships must be registered, at the date of conclusion of the contract, in the Register of organizations/religious entities for which tax deductions are granted, as set out in Law 30/2019, effective from 1 April 2019 (the United Way Romania Foundation has been registered since 8 April 2019). Taxpayers which can benefit from the tax credit related to sponsorship may only do so if the beneficiaries of the sponsorship are registered, at the date of conclusion of the contract, in the Register of organizations/religious entities for which tax deductions are granted. The provision is applicable to corporate income taxpayers).
- In the case of corporate taxpayers, the redirected amounts must fall within the lesser of the following two limits:
 - a. 0.75% of turnover;
 - b. 20% of the corporate tax due

Redirection through Form 177 for the fiscal year 2024

Order 3562/2024 published in July 2024 updates the "procedure for the redirection of corporate income tax, according to the law, for sponsorships and/or acts of patronage, as well as the model and content of some forms".

Form 177 - application on the redirection of corporate income tax, allows companies at the end of the financial year and after payment of the corporate income tax liability, to request the relevant Tax Authority under certain conditions to redirect an amount which has remained unused but has been paid to the state budget, for the sponsorship of non-profit legal entities, as per the conditions of the law.

According to Order 3562/2024, taxpayers liable for corporate income tax will have the possibility to redirect part of the tax due, in accordance with the legal provisions **until the legal deadline for filing the annual CIT return**. The amount is determined by subtracting from the minimum amount referred to in Art. 25 paragraph (4) letter i) of the Fiscal Code, the amounts already allocated for sponsorship to eligible NGOs during the year, as reported in the annual CIT return, including, if applicable, the amounts carried over indicated.

If taxpayers owe corporate income tax at the level of the minimum tax on turnover, redirection it is not allowed.

Requests for redirection should be electronically signed and submitted online and will be processed within 45 days from the date of submission, but no later than 45 days from the legal deadline applicable for applying this option (for example for cases when submission is made earlier than the legal deadline). The relevant Tax Authority is responsible for the transfer of the redirected amounts from the corporate income tax paid.

Requests that are corrected at the initiative of taxpayers by means of a rectifying return may not be submitted later than 45 days after the legal deadline for applying the option to redirect. Requests submitted after the legal deadline, as well as requests corrected at the taxpayer's initiative and submitted after the deadline will not be processed by the relevant department.

The provisions of Order 3562/2024 become applicable to the income tax redirection for the 2024 taxable year or the modified fiscal year which begins in 2024.

Furthermore, when sponsorships made during a fiscal year exceed the above-mentioned ceiling and cannot be deducted from the corporate income tax due for that year, they are no longer carried forward to the following consecutive years to be recovered by subtraction from the corporate income tax, subject to the limitation of the following years. According to Law 322/2021, which includes transitional measures, only sponsorship agreements or private scholarships made before its effective date (i.e. 1 January 2022), are carried forward to the following period, according to the terms existing at the date of the respective contracts, not exceeding the year 2028. Therefore, sponsorships made in 2021 in excess of the 2021 fiscal and tax year limitation were the last such amounts to be carried forward and usable in the future until 2028.

Example of calculation for corporate income tax payers, for which the fiscal year is the same as the calendar year, i.e. 1 January – 31 December, including redirection example via Form 177

Turnover	RON 1,000,000 for the period 1 January – 31 December 2024
Total expenses	RON 900,000 (of which RON 2,000 are sponsorship expenses)
Taxable gross profit	RON 102,000
Corporate tax (16%)	RON 16,320
Tax on profit after sponsorship	RON 14,320
The maximum amount of sponsorship which can be awarded during the year.	RON 3,264

- a. $0.75\% \text{ of turnover} = \text{RON } 1,000,000 * 0.75\% = \text{RON } 7,500$
- b. $20\% \text{ of the corporate tax due} = \text{RON } 3,264$

i. During the fiscal year (i.e. January - December) the company can grant sponsorships according to the Sponsorship Law, up to a total amount of RON 3,264. To do this, the company must have an estimated idea of the tax it will have to pay at the end of the year and allocate the relevant amounts for sponsorships from its own budget. Hence it will be eligible for a tax credit at the end of the year when it submits its annual corporate income tax return. The deadline for submitting the annual income tax return is the 25th of the sixth month after the end of the fiscal year (i.e. 25 June in the case of taxpayers whose fiscal year is the calendar year). This deadline also applies to the informative declaration detailing the beneficiaries of the sponsorship for the same period (i.e. D107), as well as to the application for the redirection of corporate income tax for the making of sponsorship (D177).

The amount of sponsorship granted falls within the limits calculated above. Consequently, if the company grants sponsorship of RON 2,000 to an NGO it reduces the corporate tax due to the state budget by the same amount.

ii. In this case, during the fiscal year the company grants sponsorship but below the legal limit. Keeping the data of the case described above, during the fiscal year, the company grants sponsorship of only RON 2,000, and benefits from the tax credit related to the sponsorship also of RON 2,000, therefore below the maximum limit of 3,264 RON. This generates an unused amount of 1,264 RON (resulting from the maximum that can be granted of RON 3,264 – the RON 2,000 granted), which eventually ends up being income tax paid to the state budget.

Turnover	RON 1,000,000 for the period 1 January – 31 December 2024
Corporate tax (16%)	RON 16.320
Sponsorship deduction limit	RON 7,500 (0.75% of turnover)
The maximum amount of sponsorship that can be granted during the year.	RON 3,264 (20% of the corporate tax due)
Sponsorship expenses granted during the year	RON 2,000
Amount left unused and paid to the state budget – which could be redirected via Form 177 for sponsorship	RON 1,264

Therefore, for the RON 1,264 remaining unused and paid to the state budget, Form 177 - Request for redirecting corporate tax, may be submitted to redirect this amount.

Form 177 **should be submitted by the legal deadline for submission of the annual corporate income tax return (i.e. 25 June in the case of a tax year which is a calendar year)** and the requirement to pay the redirected amount of corporate income tax lies with the relevant tax authority.

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