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NEWSLETTER

THIS NEWSLETTER AIMS TO PRESENT THE RECENT LEGISLATIVE CHANGES THAT MAY IMPACT YOUR BUSINESS.

THIS PUBLICATION DOES NOT CONTAIN LEGAL ADVICE AND / OR FISCAL, SOLELY GENERAL INFORMATION. WE RECOMMEND REQUESTING PROFESSIONAL LEGAL ADVICE PRIOR TO IMPLEMENTING ANY DECISION BASED ON THIS NEWSLETTER.

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GOVERNMENT EMERGENCY ORDINANCE NO. 60/2018 REGARDING THE AMENDMENT OF SEVERAL NORMATIVE ACTS IN THE FIELD OF STIMULATION OF EMPLOYMENT

On Monday, the 9th July 2018, the Emergency Ordinance no. 60/2018 for the amendment of several normative acts in the field of stimulation of employment (hereinafter "OUG no. 60/2018") was published in the Official Gazette, no. 577/09.07.2018.

The OUG no. 60/2018 is establishing an amount of 1,000 lei, not subject to income tax, representing the activation premium granted to unemployed persons, who are registered with the employment agencies for more than 30 days and do not benefit from unemployment indemnity, upon full-time employment for a duration of more than 3 months. It also provides that the activation premium shall not be cumulated with the insertion premium and installation premium.

OUG no. 60/2018 is setting an amount of 2,250 lei/month/graduate, for a period of 12 months, to be paid to employers who hire, for an indefinite period of time, graduates of certain educational institutions.

The normative act establishes the same amount mentioned above, for a period of 12 months, to be paid to employers who hire, for an indefinite period, unemployed persons of over 45 years of age, unemployed persons who are sole supporters of single-parent families, long-term unemployed or young people, provided that the employment or service relationship is maintained for at least 18 months.

The employers who hire, according to the law, unemployed who in 5 years calculated as of the date of employment meet, according to the law, the conditions for applying for partial early retirement or age retirement, if they do not qualify for the partial early retirement pension, an amount of 2,250 lei/month/employed person.

Employers who, for granting the employment stimulation measures funded by the unemployment insurance budget, have concluded conventions or contracts with the territorial employment agencies or the Bucharest Municipality prior to the date of entry into force of Emergency Ordinance no. 60/2018, shall benefit from these incentive measures in the amounts provided by the legislation before the entry into force of the abovementioned amendments.

Conventions and contracts concluded with the territorial employment agencies or the Bucharest Municipality, in progress at the date of entry into force of the Emergency Ordinance no. 60/2018, shall produce effects in accordance to the provisions of these normative acts in the form prior to the entry into force of these amendments.

Employers who request the incentive measures and conclude agreements or contracts with the territorial employment agencies or the Bucharest Municipality following the entry into force of this Emergency Ordinance no. 60/2018, shall benefit from this measures subject to the amendments brought by this emergency ordinance, regardless of whether the enrollment has been performed before or after its entry into force.

LAW NO. 163/2018 FOR THE AMENDMENT AND COMPLETION OF THE ACCOUNTING LAW NO. 82/1991, COMPANIES LAW NO. 31/1990 AS WELL AS FOR THE AMENDMENT OF LAW NO. 1/2005 REGARDING THE ORGANIZATION AND OPERATION OF COOPERATIVES

The Law no. 163/2018 for the amendment and completion of the accounting Law no. 82/1991, Law no. 31/1990 regarding the companies, as well as for the amendment of Law no. 1/2005 regarding the organization and operation of cooperatives was published in the Official Journal of Romania no. 595/2018 on Thursday, 12 July 2018.

Distribution of profits to shareholders or associates may be performed optionally on a quarterly basis, based on interim financial statements approved by the general meeting of shareholders or associates, as the case may be.

The amounts corresponding to the interim distributions are booked as receivables towards the shareholders or associates.

The amounts distributed during the financial year should be regularized within 60 days from the approval date of the annual financial statements.

THE LAW NO. 190/2018 REGARDING THE MEASURES FOR THE IMPLEMENTING OF THE REGULATION (EU) 2016/679 OF THE EUROPEAN PARLIAMENT AND COUNCIL OF 27 APRIL 2016 ON THE PROTECTION OF NATURAL PERSONS WITH REGARD TO THE PROCESSING OF PERSONAL DATA AND ON THE FREE MOVEMENT OF SUCH DATA, AND REPEALING DIRECTIVE 95/46/EC

The Law no. 190/2018 regarding the measures for the implementing of the Regulation (EU) 2016/679 of the European Parliament and Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (hereinafter the "GDPR") was published in Romanian Official Journal no. 651, from 26 July 2018.

The GDPR through Article 6(2) gives the member states the possibility to adopt and implement measures in addition to the Regulation.

We will show below which are the main additions brought by the Law no. 190/2018 (hereinafter "the Law") to GDPR.

The Article 87 from GDPR allows the member states to determine the specific conditions for the processing of a national identification number or any other identifier of general application.

The Law defines the national identification number as the number by which it is identified a natural person on some systems of record and which has general applicability, such as: the personal code number, the series and number of the ID, the number of the passport, the driving license, the number of health social insurance.

Therefore, almost any number which helps to official identify any individual is a national identification number.

For the processing of the national identification number in the purposes of the legitimate interests the operator must provide certain guarantees requested by the Law.

If the controller choose as lawful basis for the processing of the national identification numbers the legitimate interests he must appoint a data protection officer, unlike the situation when he chooses any other lawful basis provided by GDPR.

The processing of personal data in the context of the labor relations

The employer may use electronic means audio/video at the place of work in order to supervise the employees, only if:

1. the legitimate interests pursued by the employer shall be duly justified and shall prevail over the interests or the rights and freedoms of the individuals concerned;
2. the employer has carried out the prior a required, complete and explicitly information of the employees;
3. the employer has consulted the union or the representatives of the employees before the introduction of the monitoring systems;
4. other forms less intrusive to achieve the aim pursued by the employer has not previously have been shown to be effective;
5. the storage of personal data is proportional with the purposes of the processing, but not more than 30 days, except the express cases provided by law or the duly justified cases.

The processing of genetic data, biometric data or data concerning health

The Law specifies that processing of genetic, biometric data or data concerning the health shall be permitted with the consent of the concerned person, or in the situation in which the processing is carried out according to an express legal provisions with the establishment of the appropriate measures to protect the rights, freedoms and legitimate interests of the person concerned.

Penalties

The Law specifies that the main penalties that can be applied by the National Supervisory Authority, depending on the seriousness of the infringement and other circumstances, are the warning and the fine.

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