

# INFO LEGISLATIV

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## *Minimum tax 2010*

As mentioned in previous "Legislative Info" no. 3, GEO nr.22/2010 provides the postponement of the entry into force of the quarterly advance profit tax system until 2012. In 2010, for determination of profit tax similar rules to those of last year will be aplicable.

- Thus, for 2010 the profit tax due is determined by comparing the amount resulting from calculating the profit tax, as provided by the Fiscal Code, with the amount of minimum tax calculated according to the treshhold (the income treshhold is the same as in 2009 but the minimum tax in 2010 may differ from the previous year depending on total revenues recorded in the previous year). As in 2009 the higher amount of tax is due.

As the quarterly advance profit tax system was postponed, the amount of profit tax calculated is no longer updated with the inflation index. In this regard it should be amended Return 100 approved by ANAF Order no. 1430/2010 as it does not correspond with the provisions of GEO no. 22/2010.

- Starting January 2010, taxpayers which on 31 December 2009 were registered for tax purposes as microenterprises were automatically registered as profit tax payers and would calculate and pay profit tax as a regular company.
- In case a company begins or ends its activity during the year, for determining the profit tax payable a profit tax comparison is made for that period with the minimum tax determined annually according to income threshold for the previous year, recalculated for the period of activity performed.
- If a taxpayer records fiscal loss in the IV quarter of 2009, we think that for the fourth quarter minimum tax is due. Thus, profit tax that could be recoverable, as the case may be, is the profit tax due for the respective year less the minimum tax. Comparison of profit tax with minimum tax is made only quarterly and not annually.