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## **ORDINANCE 6 dated 31 July 2019 to set certain fiscal facilities (Official Gazette 648/2019)**

The Ordinance sets a series of fiscal facilities through measures to restructure outstanding budgetary liabilities.

The two main categories are presented below:

### **RESTRUCTURING BUDGETARY LIABILITIES UNPAID AS OF THE 31<sup>ST</sup> OF DECEMBER 2018 FOR DEBTORS WITH TAX OBLIGATIONS EXCEEDING RON 1 MILLION**

Restructuring budgetary liabilities addresses debtors, legal entities under public or private law, in financial difficulty and for which there is the risk of entering into insolvency.

Restructuring refers to main budgetary liabilities unpaid as of the 31<sup>st</sup> of December 2018, amounting to RON 1 million or more and not settled by the issuance date of the fiscal attestation certificate, as well as additional budgetary liabilities.

Budgetary liabilities declared by the debtor or established by the competent fiscal authority through decisions subsequent to the 1<sup>st</sup> of January 2019 for the fiscal period up to and until the 31<sup>st</sup> of December 2018 are also included. Restructuring applies to main and additional budgetary liabilities established by authorities other than the fiscal units, as well as fines of any kind, sent for recovery to the central fiscal authority subsequent to the 1<sup>st</sup> of January 2019 by the issuance date of the fiscal attestation certificate.

#### **Cumulative conditions to benefit from restructured budgetary liabilities:**

- to not meet the conditions to benefit from instalment payments regulated by the Fiscal Procedure Code;
- to present a restructuring plan and a test of the prudent private creditor (described below), prepared by an independent expert;
- to achieve the test of the prudent private creditor. This represents a stand-alone analysis, performed based on the assumptions taken into consideration within the debtor's restructuring plan, with the result that the State behaves similarly to a private creditor, adequately prudent and diligent, which may obtain a higher degree of receivable recoverability through restructuring compared to both usual enforcement practices and by initiating bankruptcy procedures;
- to not have initiated the insolvency procedure;
- to not be dissolved;
- to have all tax returns submitted, according to fiscal status (*vector fiscal*), by the issuance date of the fiscal attestation certificate or within a maximum of 10 days from request by fiscal authority.

#### **Which fiscal liabilities are subject to restructuring measures?**

- main budgetary liabilities unpaid as of the 31<sup>st</sup> of December 2018, including those set by taxation decision communicated subsequent to this date, amounting to RON 1 million or more and not settled by the date of issuance of the fiscal attestation certificate, as well as related budgetary liabilities;
- main and additional budgetary liabilities set by authorities other than fiscal authorities, transmitted for recovery to fiscal authorities subsequent to the 1<sup>st</sup> of January 2019;
- any kind of fines forwarded to fiscal authorities for recovery subsequent to the 1<sup>st</sup> of January 2019.



### What fiscal liabilities are not subject to restructuring measures?

- ☑ fiscal liabilities offset by any amounts to be reimbursed/returned/paid from the budget;
- ☑ fiscal liabilities set by administrative acts whose execution was suspended according to Law 554/2004. The debtor has the option to renounce to the suspension procedure.
- ☑ main and additional liabilities representing state aid to be recovered.

Debtors meeting the previously-mentioned conditions may claim their right to restructure budgetary liabilities with the fiscal authority. The restructuring process may be set based on one or several measures, among which should be the objective of facilitating payment of budgetary liabilities.

### Restructuring measures which may be proposed by a restructuring plan are as follows:

- a) **Facilitating payment of budgetary liabilities**, meaning instalment payment of main budgetary liabilities, as well as postponed payment of additional liabilities and/or a percentage of up to 50% of the main budgetary liabilities, for cancellation purpose, if measures of the restructuring plan are observed.
- b) **Conversion into shares** of main budgetary liabilities, for debtors which have the State as full or major shareholder.
- c) Settlement of main budget liabilities through **transfer in lieu of payment** of certain types of real estate belonging to the debtor.
- d) **Cancellation** of certain main budgetary liabilities.

To benefit from these measures, debtors have the obligation to **notify** the competent fiscal authority regarding its intention to restructure budgetary liabilities by the 30<sup>th</sup> of September 2019, under penalty of preclusion.

Subsequently, **the restructuring claim** may be submitted within six months from effective date of the current Ordinance, meaning by the **10<sup>th</sup> of February 2020**. For debtors placed under inquiry or investigation procedure by the European Commission regarding compatibility with legislation in the field of state aid, the six-month deadline starts from the date when the modality to grant fiscal facilities by the European Commission is agreed, under penalty of preclusion.

The claim must be accompanied by a **restructuring plan** and a **test of the prudent private creditor**, prepared by an independent expert and containing information regarding causes generating the financial difficulty of the debtor, proposed restructuring measures, proposed recovery period and modality to pay fiscal liabilities throughout the restructuring period. Enforcement procedures are not initiated or are suspended, as the case may be, on the submission date of the claim.

When the conditions are met, the fiscal authority will issue a decision to approve the restructuring plan. The budgetary liabilities subject to restructuring will no longer be considered outstanding liabilities, and no additional liabilities are calculated or owed.

Throughout the restructuring period the debtor will be permanently monitored and supervised by an independent expert having the obligation to prepare a report which will be sent to the debtor and fiscal authority.

When debtors notify the fiscal authority regarding its restructuring intention to restructure, but does not submit a claim in this regard, the restructuring claim is rejected or the restructuring plan fails, then the fiscal authority is obliged to request that insolvency procedures against the respective debtor be opened.

The Ordinance does not define who may be an independent expert, what qualification he or she should have or the professional body in which he or she should be a member.

### **CANCELATION OF ADDITIONAL LIABILITIES FOR DEBTS UNDER RON 1 MILLION IF THE MAIN BUDGETARY LIABILITIES ARE PAID BY THE 15<sup>TH</sup> OF DECEMBER 2019**

The facility consists of the possibility to cancel additional liabilities related to main budgetary liabilities under RON 1 million, outstanding as of the 31<sup>st</sup> of December 2018, which are administered by the central fiscal authority. The facility addresses debtors that are legal entities, individuals and entities without legal personality.

Individuals or entities without legal personality, administrative territorial units and administrative territorial subdivisions of Bucharest or public institutions – which have

**Measures to restructure outstanding budgetary liabilities**



main budgetary liabilities unpaid as of the 31<sup>st</sup> of December 2018 of RON 1 million or more – may also benefit from these provisions.

Main budgetary liabilities unpaid by the 31<sup>st</sup> of December 2018 is understood to be:

- ☑ budgetary liabilities with payment deadline by the 31<sup>st</sup> of December 2018;
- ☑ differences between main budgetary liabilities set by taxation decision communicated by the 31<sup>st</sup> of December 2018, even though the payment deadline has not expired;
- ☑ other liabilities secured by enforceable titles issued according to law and in the fiscal authority's records in order to have them recovered by the 31<sup>st</sup> of December 2018.

The following are not considered outstanding liabilities on the 31<sup>st</sup> of December 2018:

- ☑ budgetary liabilities for which payment facilities were granted by the 31<sup>st</sup> of December 2018;
- ☑ liabilities set by administrative acts whose execution is suspended according to law, as of the 31<sup>st</sup> of December 2018.

Cumulative conditions that should be met are:

- ☑ all main budgetary liabilities unpaid as of the 31<sup>st</sup> of December 2018, administered by the central fiscal authority, may be settled by the 15<sup>th</sup> of December 2019;
- ☑ all main and additional budgetary liabilities, administered by the central fiscal authority with payment deadlines between the 1<sup>st</sup> of January and the 15<sup>th</sup> of December 2019, should be settled by the submission date of the request to cancel additional liabilities;
- ☑ all tax returns should be submitted;
- ☑ submission of request to cancel by the 15<sup>th</sup> of December 2019, under penalty of preclusion.

The Ordinance presents conditions in which someone may benefit from cancellation of additional liabilities in the form of several practical cases, such as:

1. **Cancellation of additional debts related to budgetary liabilities unpaid as of the 31<sup>st</sup> of December 2018.** Conditions:

- main budgetary liabilities unpaid as of the 31<sup>st</sup> of December 2018, administered by the central fiscal authority, are settled by the **15<sup>th</sup> of December 2019**;
- main and additional budgetary liabilities administered by the central fiscal authority with payment deadlines between the 1<sup>st</sup> of January and the 15<sup>th</sup> of December 2019 are settled by the submission date of the request to cancel additional liabilities;
- the debtor's tax returns, according to fiscal status, should be submitted by the date when the request to cancel additional liabilities is submitted. This condition is also considered to be met for periods when tax returns were not submitted, but fiscal liabilities were set by the fiscal authority through decisions;
- the debtor submits the request to cancel additional liabilities subsequent to meeting the above-mentioned conditions, but no later than the **15<sup>th</sup> of December 2019**, under penalty of preclusion.

2. **Cancellation of additional debts related to supplementary budgetary liabilities declared by debtors through adjusted tax return.** Conditions:

- the adjusted tax return is submitted starting the 1<sup>st</sup> of January 2019 and by the 15<sup>th</sup> of December 2019;
- all main budgetary liabilities specified on the adjusting tax return are settled by the 15<sup>th</sup> of December 2019;
- the last 3 conditions provided at point 1 above are adequately met.

Provisions are also applicable for correction of errors on VAT returns.

3. **Cancellation of additional debts related to budgetary liabilities having payment deadlines by the 31<sup>st</sup> of December 2018 and settled by this date.** Interest, penalties and all additional liabilities related to main budgetary liabilities with payment deadlines through the 31<sup>st</sup> of December 2018 and paid by this date are cancelled if the final 3 conditions provided per point 1 above are adequately met.

4. **Cancellation of additional liabilities related to budgetary liabilities with payment deadlines by the 31<sup>st</sup> of December 2018 itemized on taxation decision.** Interest, penalties and all additional liabilities related to main budgetary liabilities administered by the central fiscal authority having payment deadlines through the 31<sup>st</sup> of December 2018 and specified on taxation decisions issued following an ongoing



**Cancellation of additional liabilities if the main budgetary liabilities are settled by 15 December 2019**



ing fiscal inspection on the date of coming into force of the current Ordinance, are cancelled if the following conditions are cumulatively met:

- o all differences in main budgetary liabilities specified on the taxation decision are settled through any modality provided by the law by the payment deadline provided by art. 156 para. (1) of the Fiscal Procedure Code;
- o request to cancel additional liabilities is submitted within 90 days from communication date of the taxation decision, under penalty of preclusion.

Debtors finding themselves in the situations described above and wishing to benefit from cancellation of additional liabilities may submit a notification in this regard to the fiscal authority. Starting with notification date, payment of additional fiscal liabilities is postponed for the purpose of cancellation, and the enforcement procedure does not start or is suspended, as the case may be.

In the situation of fiscal inspections that will start subsequent to date the Ordinance comes into force (the 8<sup>th</sup> of August 2019), fiscal authorities will grant the cancellation only if the adjusted tax returns are submitted by debtors within a maximum of 10 days from effective date of the Ordinance, meaning the 17<sup>th</sup> of August 2019.

**ORDER 2643 dated 31 July 2019 to approve Procedures to cancel social health insurance contribution, as well as additional related fiscal liabilities subject to provisions of art. 2 and 3 of GEO 31/2019 on granting certain fiscal facilities, and to amend and complement Law 227/2015 on the Fiscal Code, to complement GEO 11/2018 to adopt certain budgetary measures and to amend framework Law 153/2017 on payroll for staff paid from public funds (Official Gazette 691/2019)**

The Order approves the following procedures:

- procedure to identify individuals benefiting from cancelation of social health insurance contribution (CASS) according to provisions of art. 2 of GEO 31/2019;
- procedure to cancel CASS, as well as the related fiscal liabilities, according to provisions of art. 2 and 3 of GEO 31/2019.

Also, the template and content of Decision to cancel social health insurance contribution and additional fiscal liabilities is approved.

Details on provisions of GEO 31/2019, which generated the necessity to elaborate these procedures, may be found in APEX Newsletter no. 5 2019.

**ORDER 2227 dated 12 August 2019 to approve template and content of form 300, VAT Return (Official Gazette 687/2019)**

The Order updates form 300, VAT Return, as well as its filing instructions.

The update is necessary due to recent changes in fiscal treatment for provision of electronic, telecommunication, radio and television services, through optional application of the mini one-stop-shop (MOSS) regime. In this regard, see Law 60/2019 and Order 1783/2019 presented in 2019 APEX Newsletters no. 4 and no. 7.

Law 60/2019 introduced an exception to application of the MOSS regime. The place where services are provided is considered to be in the Member State where the provider is established, if the following conditions are cumulatively met:

- the provider is established, or if not, has as its permanent address or usual residence in only one Member State;
- services are provided to non-taxable entities which are established, have their permanent address or usual residence in a Member State other than the Member State where the provider is established;
- the total amount of goods or services provided without VAT shall not exceed, during the current calendar year, EUR 10,000 or the equivalent of this amount in national currency (RON 46,337) and did not exceed this amount during the previous calendar year. If during the calendar year, the threshold of EUR 10,000 is exceeded, the place of provision changes to the Member State where the beneficiary is located.

Service providers from Romania meeting the above-mentioned conditions have the right to opt for the place services are provided at the beneficiary's Member State (meaning to apply MOSS option). The option is applicable for at least two calendar years.

Returning to form 300, VAT Return, the Order has introduced 2 lines (17 and 18), refer-



**The VAT Return has been updated**

ring to provision of electronic, telecommunication, broadcasting and television services which are subject to VAT in Romania (meaning services for which MOSS is not applied). At the end of the *VAT Return* form, in the informative section, two additional boxes were introduced to report total cumulative value (without VAT) of previous and current year provision of services to non-taxable entities from other EU Member States provided by art. 278 para. (8) letter b) of the Fiscal Code, meaning telecommunication, radio and television services, as well as provision of services through electronic means.

In addition to the structural changes made to the *VAT Return*, there is also notable change in the pdf format. Use of the new *VAT Return* began starting with declaration of fiscal obligations related to July 2019.

### **ORDINANCE 19 dated 21 August 2019 to amend and complement Law 207/2015 on the Fiscal Procedure Code (Official Gazette 694/2019)**

The Ordinance brings complements to the Fiscal Procedure Code.

Title IX, Amicable procedure to avoid/eliminate double taxation is replaced with Solving fiscal litigation generated by interpretation and application of agreements and conventions providing the avoidance/elimination of double taxation in the form of two new procedures:

- Amicable procedure based on agreements or conventions to avoid/eliminate double taxation and based on Convention 90/436/CEE regarding elimination of double taxation related to adjusting profits of associated companies;
- Amicable procedure to avoid/eliminate double taxation based on Directive (EU) 2017/1852 of the Council on mechanisms to solve fiscal litigation in the European Union.

### **ORDER 2098 dated 30 July 2019 to amend Procedure to issue and communicate certain administrative and enforcement acts for debtors registering outstanding fiscal liabilities under a certain limit, approved by ANAF Presidential Order 727/2019 (Official Gazette 673/2019)**

The Order sets the terms in which authorities will issue subpoenas, enforceable titles and will garnish bank accounts of debtors according to their size:

- large-size taxpayers;
- medium-size taxpayers;
- small-size taxpayers and other categories of debtors;
- individuals.

### **SUBPOENAS AND ENFORCEABLE TITLES**

For the issuance of a subpoena and enforceable title, the central fiscal authority, which has the competence of administering fiscal liabilities of the debtor, evaluates outstanding fiscal liabilities of debtors twice a month (for days 1-15 and 16-30 of the same calendar month) and issues a subpoena and enforceable title after 180 days from the last issuance or from the date when outstanding fiscal liabilities were registered, as follows:

- a) when amount of outstanding fiscal liabilities does not exceed RON 3,000, for large-size taxpayers;
- b) when amount of outstanding fiscal liabilities does not exceed RON 1,500, for medium-size taxpayers;
- c) when amount of outstanding fiscal liabilities does not exceed RON 500, for the other categories of debtors;
- d) when amount of outstanding fiscal liabilities does not exceed RON 100, for individuals.

In the situation where, by the communication date of subpoenas and enforceable titles, the fiscal liabilities were totally or partially settled, and the difference is under the thresholds provided above, these administrative acts are no longer communicated to debtors. In case of partial settlement, the remaining fiscal liabilities are taken into consideration when subsequently issuing subpoenas and enforceable titles. By exception, the fiscal authority issues and communicates subpoenas and enforceable titles to the debtor whenever there is the risk of prescription to the right to enforcement.

### **GARNISHMENT OF CASH/CASH FLOW**

For issuance of documentation to set garnishment of cash flow as well as communica-




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**New thresholds based on the size of the taxpayer for issuing subpoenas and enforceable titles**

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tion to inform taxpayer of garnishment, ANAF (National Agency of Fiscal Administration) evaluates outstanding fiscal liabilities of debtors for which subpoenas were communicated where ANAF was not notified by the debtors on their intention to mediate. In these cases, ANAF issues enforceable acts according to the thresholds presented below, for each taxpayer category:



	Large-size taxpayers	Medium-size taxpayers	Other categories of debtors	Individuals
After 15 days from communication of subpoena, the fiscal liabilities remaining unsettled are greater than:	RON 40,000	RON 40,000	RON 10,000	RON 2,000
After 90 days from communication of subpoena, the fiscal liabilities remaining unsettled are greater than:	RON 20,000	RON 10,000	RON 5,000	RON 1,000
After 180 days from communication of subpoena, the fiscal liabilities remaining unsettled are greater than:	RON 3,000	RON 1,500	RON 500	RON 100

In case the debtor has notified the central fiscal authority of its intention to mediate, the above deadlines change as follows:

- a) from the 16<sup>th</sup> day from the date of communication of mediation minutes, when the debtor does not observe conditions set in the minutes;
- b) from the date of preparation of the minutes when absence of the debtor at the mediation meeting was recorded.

**The amounts under certain thresholds will not be subject to garnishment**

**ORDER 2201 dated 12 August 2019 to amend Annex of ANAF Presidential Order 3607/2016 to approve Instructions to complete payment number (Official Gazette 697/2019)**

**ORDER 2153 dated 2 August 2019 to approve creation of enforcement body to fulfil certain enforcement acts through large-scale electronic processes (Official Gazette 673/2019)**

The Order approves creation of enforcement body to fulfil certain enforcement acts through large-scale electronic processes. In this regard, the General Directorate to regulate collection of fiscal receivables has the quality of enforcement body and is the authorized structure to fulfil certain enforcement acts through large-scale electronic processes, using certain software made available for this purpose.

**ORDER 2085 dated 29 July 2019 to approve template and content of form 109, Tax return on net financial assets (Official Gazette 642/2019)**

The Order approves template, content and instructions to complete form 109, Tax return on net financial assets, which is submitted by banking institutions. The tax on net financial assets was introduced by the controversial Ordinance 114/2018.

The form is transmitted electronically.

**DECISION 524 dated 24 July 2019 to approve Methodological Norms to determine market share, interest margin, net financial assets and deductions from taxable base, as well as reporting indicators required to calculate tax on assets, provided by art. 86-88 of GEO 114/2018 to set certain measures in the area of public investment and fiscal and budgetary measures, to amend and complement certain normative acts and to extend certain deadlines (Official Gazette 636/2019)**

**LAW 162 dated 1 August 2019 to amend para. (2) of art. 6 of the Law on Companies 31/1990 (Official Gazette 644/2019)**

The law prohibiting persons who have committed several crimes, listed according to the law, from being a founder of a company is rephrased.



### **DECISION 557 dated 31 July 2019 to set the 16<sup>th</sup> of August 2019 as a non-working day (Official Gazette 644/2019)**

For employees in the public sector, the 16<sup>th</sup> of August 2019 is set as a non-working day, the day being recovered by extending the work schedule no later than through the 31<sup>st</sup> of August 2019.

Provisions do not apply to certain job categories which have a special status or require continuous presence.

### **ORDER 7 dated 12 August 2019 to amend and complement Order of the National Bank of Romania (NBR) 10/2012 to approve the half-year accounting reporting system applicable to entities under NBR regulatory domain (Official Gazette 680/2019)**



### **ORDER 2137 dated 2 August 2019 on procedure to apply provisions related to traceability of tobacco products (Official Gazette 683/2019)**

### **ORDER 2138 dated 2 August 2019 on data retention contracts concluded as part of a traceability system for tobacco products (Official Gazette 683/2019)**

### **ORDER 2010 dated 17 July 2019 to amend Annex no. 1 of ANAF Presidential Order 3494/2013 to approve template and content of standard form for Minutes on findings and sanctions against offenses, ANAF code 14.13.22.99/7, used in inspection activity by anti-fraud inspectors within Anti-fraud General Directorate (Official Gazette 688/2019)**

### **DRAFT NORMATIVE ACT TO REGULATE TIPS (Source: [www.mfinante.ro](http://www.mfinante.ro))**

The Ministry of Public Finance (MPF) website includes a public debate on a draft normative act for accounting and fiscal regulation of tips. We present the main aspects below:

- defining the tips in order to highlight these amounts on the fiscal bill, with the purpose of clearly separating them from revenue collected by economic operators for delivery of goods or provision of services directly to the population and to ensure taxation of the tips according to the Fiscal Code;
- setting the obligation to highlight tips collected from customers on the fiscal bill, in the case of restaurant or bar services and other activities related to serving drinks, regardless of the method of payment (card/cash/cash substitutes);
- registration of tips on fiscal bill is not mandatory for home deliveries;
- it is forbidden require tips for the delivery of goods or provision of services in any form;
- obligation of the economic operator to give the customer a payment tab is established, this prior to issuing the fiscal bill. The payment tab will contain several options for the customer representing the level of tip he or she wants to pay. The level may vary between 0% and 15%;
- obligation of the economic operator to distribute amounts obtained from tips entirely to employees, according to internal regulation and to recognise them in accounting records as liabilities (not on income statement);
- in case the payment is made by payment order and an invoice is issued, the tips are separately identified;
- At the economic operator's option, the tips may be mentioned on the same fiscal bill as the goods delivered/services provided or on a separate fiscal bill, depending on when the value of the tips is known by the issuer of the fiscal bills;
- the tips are entered in the database of electronic fiscal cash registers as an article, with the name tips/bacsiş.

For the employee, tips are considered income from other sources, being subject to taxation by withholding when granting the income to employees by the income payers. The income is not included in the calculation base for the social security contribution.

**New accounting  
and fiscal  
regulations  
proposed for tips**



## DRAFT NORMATIVE ACT TO AMEND THE FISCAL CODE AND THE FISCAL PROCEDURE CODE (Source: [www.mfinante.ro](http://www.mfinante.ro))

A public debate on a draft of the normative act to amend the Fiscal Code and the Fiscal Procedure Code is also on the MPF website. The amendments were proposed following several requests and consultations between MPF and the business community.

The measures to be adopted include:



### FISCAL CODE

- ☑ consolidation of corporate tax owed by fiscal groups;
- ☑ development of the concept, *place of effective management*, for non-resident legal entities registered in a state with which Romania has concluded a Convention to avoid double taxation, according to legislation of that state, but controlled and managed in Romania;
- ☑ These foreign legal entities with the *place of effective management* in Romania will owe corporate tax for taxable profit obtained from any source, both in Romania and from abroad.
- ☑ exclude personal use of certain vehicles from taxable salary income where such vehicles are not exclusively used for the purpose of economic activity and are in the patrimony of legal entities applying the tax regime for micro-enterprises or the specific tax for certain activities;
- ☑ regulation of the obligation to calculate, withhold, pay and declare tax on income tax and mandatory social contributions, related to benefits in cash and in kind received by the employee from third parties.

### FISCAL PROCEDURE CODE

- ☑ Regulate the establishment and lifting of garnishments in the electronic environment, so that the garnishment is lifted after full amount owed has been collected, and the debtor has their accounts cleared/released as soon as possible. This measure takes into account the development of the MPF/ANAF information system, through which garnishments and the related activities to settle them, are managed so that they don't require significant development effort from banks regarding their own information systems.
- ☑ Possibility to re-evaluate the inspection upon the taxpayer's request as well if conditions provided by law are cumulatively fulfilled, with the purpose of implementing the Zabrus Case (C-81/17), considering that the Court of Justice of the European Union (CJEU) noticed an imbalance between the rights of the taxpayer and those of the fiscal authorities.
- ☑ Nullity sanction of the fiscal administrative act in the case where the fiscal authority does not respect certain obligations set by the law.
- ☑ Change in the competence to solve appeals from ANAF to MPF. The purpose of this measure is to increase taxpayer confidence in the fiscal system by ensuring a higher level of independence and, implicitly, the premises to increase impartiality in making decisions regarding taxpayer appeals against all acts issued by the fiscal administration. Basically, the structures solving appeals existing at the ANAF level will be the responsibility of MPF.
- ☑ Regulation of possibility to review decision to solve the appeal in certain situations, specifically provided by law for the purpose of ending costly judicial procedures for both taxpayers and the fiscal administration, as well as relieving the courts of this type of litigation and avoiding payment of court costs, interest or other amounts by fiscal authorities if it is considered that the document issued is not in accordance with legal provisions. Effective application: from the 1<sup>st</sup> of November 2019.



**Fiscal consolidation could be introduced soon into legislation**

## DRAFT NORMATIVE ACT TO REDUCE THE PHENOMENON OF DECAPITALIZATION OF COMPANIES IN NON-FINANCIAL SECTOR (Source: [www.mfinante.ro](http://www.mfinante.ro))

The measures, concerning the financial health of companies, aim to amend and complete the following normative acts:

### LAW ON COMPANIES (L31/1990)

- ☑ Interdiction to grant advances and loans to shareholders/associates in companies opting for quarterly distribution of dividends, until amounts distributed during the year are settled. The interdiction does not concern advances granted in relation to

carrying out economic activity. Clarification of rules on distribution of dividends from certain company reserves, as well as from cumulative results carried forward. The explicit mention of the equity elements that may be distributed as dividends ensures a unitary interpretation of the concept of *distributable reserves/reserves available for distribution*. Introduction of a provision on mandatory conversion into shares of the company's debts to shareholders/associates, resulting from loans or other financing granted by them, to the companies where net assets decreased below half of share capital.

- ☑ Competence of authorities in monitoring entities facing financial problems in relation to the legal level of capital, respectively MPF-ANAF and ONRC (National Trade Register Office) are designated and the situations in which each of the two institutions may submit a dissolution act are clearly established.
- ☑ The transfer of competence to solve judicial dissolution actions from the Courts to the National Trade Register Office, and simplification of procedures to appoint the liquidator and carrying out the public announcements of the dissolution resolutions according to law.
- ☑ The proposed changes will lead to broadening access to information registered at the Trade Register, simplifying formalities and lowering administrative costs, easing the activity of the courts, as well as ensuring a transparent and predictable business environment.
- ☑ Introduction of new contraventions and sanctions, corresponding to new provisions contained in Law on Companies 31/1990.

### ACCOUNTING LAW 82/1991

- ☑ The introduction of specific provisions to include in the applicability area of the Accounting Law of foreign legal entities having fiscal residence in Romania in order to oblige them to conduct bookkeeping and to submit financial statements in Romania in order to improve efficiency of tax inspections.
- ☑ The introduction of specific provisions to clearly establish reporting for accounting losses during the current financial year on annual financial statements. The purpose of these provisions is to cover the accounting loss carried forward from current profits prior to distribution of dividends.

### INFO - Valuation of monetary items in foreign currency

The August closing NBR exchange rates to use for valuation of monetary items (cash on hand, receivables, payables) denominated in foreign currency, as well as receivables and payables denominated in RON but pegged to a foreign currency for collection/disbursement are:

1 EUR = 4.7294RON; 1 CHF = 4.3323 RON; 1 GBP = 5.2212 RON; 1 USD = 4.2827RON.

### MONTHLY AGENDA

#### EVERY DAY - DO NOT FORGET

- ☑ To complete the petty cash register (or print electronic version)
- ☑ To complete the purchase ledger and sales ledger
- ☑ To update electronic employee registers with information regarding labour contract inception/amendment or termination, if any

#### AT MONTH END - DO NOT FORGET

- ☑ To complete the journal ledger
- ☑ To register contracts concluded during the month for services rendered by non-residents with tax authorities as per article 8 point 8 of the Fiscal Code
- ☑ To revalue monetary assets and liabilities in foreign currency (cash on hand, assets, liabilities) at the NBR exchange rate in force on the last banking day of the month
- ☑ To organise a stock count of inventories if the enterprise does not use a perpetual inventory system
- ☑ To issue final invoices for the current month.

#### TO COMPLY WITH REQUIREMENTS REGARDING VAT

- ☑ Mention the registration code under the scope of VAT on documents for EU business partners




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**Do not forget to submit the tax returns and to pay the taxes and contributions**

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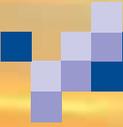
- ☑ Check validity of registration code under the scope of VAT mentioned on invoices received
- ☑ Check amount of VAT disclosed on invoices received
- ☑ Check references related to VAT (e.g.: “reverse charge,” “operation not subject to VAT,” etc...)
- ☑ On invoices, write VAT amount received in case of reverse charge
- ☑ Maintain ledger of goods received
- ☑ Maintain ledger of non-transfer of goods
- ☑ Maintain non-current assets ledger
- ☑ Mention which exchange rate will prevail (NBR, commercial bank or Central European Bank) in contracts with foreign partners

**TO CONSULT THE CALENDAR OF TAX LIABILITIES, VISIT THE FOLLOWING LINK ON ANAF WEBPAGE (IN ROMANIAN):**

[https://static.anaf.ro/static/10/Anaf/AsistentaContribuabili\\_r/Calendar/Calendar\\_obligatii\\_fiscale\\_2019.htm](https://static.anaf.ro/static/10/Anaf/AsistentaContribuabili_r/Calendar/Calendar_obligatii_fiscale_2019.htm)

### KEY HR FIGURES

2019 Contributions for dependent activities	Employer and beneficiary (for activities considered dependent) (% share)	Employee and dependent worker (% share)
Social security contribution (pension)	<ul style="list-style-type: none"> <li>• It is not due to normal working conditions</li> <li>• 4% for special work conditions</li> <li>• 8% for special work conditions</li> </ul>	25% (**)
Contribution to health insurance fund (calculated on gross income)	It's not due	10% (***)
Work insurance contribution	2.25% (*)	
Income tax		10% (****)
Disability Fund (for employers with more than 50 employees)	4 x minimum wage for every 100 employees	
The amount of a taxable meal tax in the sense of income tax	max 15,18 lei	
Minimum wage (gross) <b>from 1 January 2019</b>	<ul style="list-style-type: none"> <li>• 2,080 lei</li> <li>• 2,350 lei (for more than 1 year and functions requiring higher education)</li> <li>• 3,000 lei for employees on construction field</li> </ul>	
Diurnal (in the country) For employees of public institutions For private sector employees (* 2.5)	<ul style="list-style-type: none"> <li>• 20 lei</li> <li>• 50 lei</li> </ul>	
<p>The below tax facilities are available for employers on the field of construction, when minimum 80% of turnover is from construction activities defined by law:</p> <p>(*)not due by employer</p> <p>(**) the social security owed by the employee is decreased to 21,25%</p> <p>(***) health insurance is not due by the employee</p> <p>(****) tax on income is not due for gross salaries between 3.000 lei and 30.000 lei.</p>		



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**Our Mission:**  
**Adding Value to Client's Business**

*APEX Team includes qualified professionals able to provide a full range of accounting and payroll services. Our consultants are ready to share their knowledge and experience gained whilst working in Romania as consultants for one of the Big 4 international companies, having many international companies acting in a wide range of industries as clients.*

*The team includes chartered accountants (Romanian Chartered Accountants Body and also ACCA) specialised in accounting for business entities, as well as a group specialised in payroll administration on behalf of the client.*

*APEX Team provides a full range of accounting services, payroll services, local tax compliance and tax advice, as well as services tailored to your company needs:*

- Bookkeeping*
- Recurring accounting assistance*
- Payroll computation and additional HR services*
- Accounting and tax advice « on line »*
- Consulting and assistance in drafting transfer price files*
- Start up services*
- Organization of the accounting function*
- Assistance in implementation of ERP*
- Training*