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EMERGENCY ORDINANCE 28 dated 19 March 2008 to amend and complement Law 273/2006 regarding local public finance (Official Gazette 217/2008)

Any person who sets up an entity (legal entity or not) at an address other than its registered address with a **minimum of 5 employees** must apply for registration of the newly established entity as an employer who pays salaries and assimilated at the local tax authority under the subordination of ANAF where the activity is carried out. The application for registration is to be filed with central or local public institutions within 30 days of set up date, using form 060.

ORDER 858 dated 19 March 2008 regarding submission of tax returns using electronic means from remote locations (Official Gazette 242/2008)

The following tax returns may be submitted from remote locations by electronic means:

- State consolidated budget liability return (form 100), code 14.13.01.99/bs;
- Social insurance and special funds liability return (form 102), code 14.13.01.40;
- Excise tax return (form 103), code 14.13.01.03/a;
- Adjusted return (form 710), code 14.13.01.00/r;
- Corporate tax return (form 101), code 14.13.01.04;
- VAT return (form 300), code 14.13.01.02;
- Special VAT return for VAT non payers (form 301), code 14.13.01.02/s;
- Statement regarding excises (form 120), code 14.13.01.03;
- Tax return on crude oil and natural gas from domestic production (form 130), code 14.13.01.05.

To submit tax returns from remote locations by electronic means, an "on-line submission of returns" facility exists on the ANAF portal of the Ministry of Economic and Finance (MEF).

To benefit from this facility, the taxpayer must ask ANAF to issue a digital certificate. The application is made on-line by filing an electronic form (form 140). The digital certificate is issued free of charge with the name of the persons who are enabled to sign the tax returns and is valid for 1 year.

ANAF will issue such certificates only until 1 May 2008. Afterwards, the digital certificates can be requested from providers of certification services who are licensed in accordance with Law 455/2001 regarding electronic signatures. Taxpayers who already have a qualified digital certificate issued by a licensed provider may continue to use it to submit their tax returns without being obliged to apply for a new one.

The submission date for tax returns submitted by electronic means is the date of registration on the MEF website as communicated to the taxpayer by the confirmation message sent upon receipt of the tax return.

Once the tax return is submitted by electronic means of transmission, it is not necessary to submit it in paper format.

EMERGENCY ORDINANCE 44 dated 16 April 2008 regarding licensed individuals, individual and family enterprises carrying out economic activity (Official Gazette 328/2008)

- This Ordinance provides rules on access to economic activities, procedures to register with the Trade Register and obtain a license for operation, as well as the legal regime for licensed natural persons ("PFA"), individuals and family enterprises carrying out economic activity.
- Any natural person, Romanian citizen or citizen of another EU member State or of EES can carry out economic activities in Romania under the provisions of law.
- A natural person can carry out economic activities as follows:
 - individually and independently as a licensed natural person;
 - As entrepreneur running an individual enterprise;
 - As member of a family enterprise.
- The significant amendment brought by the Ordinance is the **Trade Register taking over the entire procedure for set-up and registration of a "PFA"** and of individual and family

enterprises. The registration certificate will be issued within 3 working days. Prior to this ordinance, licensing was accomplished on the basis of an application at the appropriate City Hall, followed by a request for a sole registration number from the Trade Register and finally registering with the applicable Tax authority.

ORDER 477 dated 24 March 2008 to amend and complement the Methodology for distribution of amounts paid by the taxpayer to the sole account and for settlement of fiscal debts by the taxpayer (Official Gazette 235/2008)

The amounts paid by the taxpayer which represent fiscal liabilities as per Order of ANAF President 1294/2007 with its further amendments which are due to the State Budget are distributed by the tax authority in charge by type of outstanding fiscal liability, starting with fiscal liabilities under the withholding regime and then other fiscal liabilities.

Amounts which represent fiscal liabilities destined for social insurance budgets and to special funds as per the same Order which are paid by the taxpayer to the sole account are distributed by the tax authority in charge in proportion to the amount owed to each budget, then by type of fiscal liability, priority being fiscal obligations under the withholding regime and then other fiscal liabilities.

DECISION 13 dated 19 March 2008 to approve Norms to carry out fiscal expertise upon request of judicial courts, prosecutors, fiscal entities or any other interested party (Official Gazette 270/2008)

Fiscal expertise can only be carried out by members of the Chamber of Fiscal Consultants registered on the Register of fiscal consultants and fiscal consultant companies as active members. Judicial fiscal expertise can only be carried out by fiscal consultants who are natural persons and, regarding extra-judicial cases, by fiscal consulting firms.

When a court considers it necessary to clarify the circumstances of the case by obtaining the opinion of a specialist, one or three experts will be appointed upon request of the parties or ex officio. The court will decide which issues will be reviewed and will set the deadline for the expert opinion.

INSTRUCTION 9 dated 1 April 2008 regarding the reference interest rate of the National Bank of Romania (NBR) for the month of April 2008 (Official Gazette 278/2008)

For the month of April 2008, the NBR reference interest rate is 9.03 % per annum.

EMERGENCY ORDINANCE 39 dated 26 March 2008 to amend and complement Law 34 on bills of trade and promissory notes (Official Gazette 284/2008)

Considering the significant progress in reform, modernisation, development and diversification which occurred over the last few years regarding instruments of payment, bills of trade and promissory notes can now be processed by electronic means. In these cases, any signature on a bill or trade must have:

- Name and surname of the natural person or the legal company name which commits;
- Hand-written signature of the: natural person, legal representative, person with a power of attorney from the legal entity which commits or its legal representative, or a person with a power of attorney from the other entities which use such an instrument.

ORDER 552 dated 28 March 2008 to approve the model and the content of form 390 "Summary statement regarding EU supplies/acquisitions of goods" (Official Gazette 294/2008)

- Regarding acquisition of goods within the EU, where the supplier does not communicate a valid VAT code but the goods are on the territory of an EU member State, the acquisition is to be declared in the summary statement even if no VAT code is provided to the partner.
- Regarding intra-community supplies to clients established outside the European Community which have appointed a fiscal representative in the European Community, the name of the client (not the name of its fiscal representative) will be disclosed as the "Intra-community operator name," but the VAT registration code attributed to the foreign entity via its fiscal representative will be disclosed as the "Intra-community operator code."
- Regarding intra-community acquisitions from a supplier which is not established in the European Community and who has appointed a fiscal representative in the State member from where the transport is leaving, the name of the supplier (not the name of its fiscal representative) will be disclosed at the caption "Intra-community operator name," but the VAT registration code attributed to the foreign entity via its fiscal representative will be disclosed at the caption "Intra-community operator code."
- This treatment will be applied to circumstances where a supplier which is not established in the European Community has not appointed a fiscal representative in the member State at point of departure, but by following simplification measures regarding import declarations allowed by certain member States, i.e. global representation by a company which can be, for instance, a delivery/transport company. In this case, the extra-community operator is deemed to be fiscally represented by the global representation company.

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H.R. KEY FIGURES

2008 Contribution	Employer (%)	Employee (%)
Social security contribution (*)	19.50% for normal working conditions (**) 24.50% for particular working conditions (**) 29.50% for special working conditions (**)	9.5%
<p>* NOTE: The basis for the employer and employee contribution to social insurance is no longer subject to a ceiling. ** NOTE: Starting 1st December 2008, employer contributions to social insurance decrease to: 18% for normal working conditions 23% for particular working conditions 28% for special working conditions</p>		
Medical leave contribution and health insurance allowance	0.85%	
Work accident and occupational disease fund	0.4% - 2% depending on CAEN code for main activity	
Unemployment fund	1%	0.5% (**)
** NOTE: Employee unemployment contributions are calculated by applying 0.5% to total gross income		
Contribution to fund to guarantee payment of salary liabilities	0.25%	
Health insurance fund	5.5% (*)	6.5% (**)
<p>* NOTE: Starting 1st December 2008, employer contributions to health insurance will be 5.2%. ** NOTE: Starting 1st July 2008, employee contributions to health insurance will be 5.5%.</p>		
Labour office commission	0.25% or 0.75%	
Salary tax		16%
Contributions for non employment of disabled persons (for employers with more than 50 employees)	4 x 50% minimum gross salary (RON 500) for every 100 employees	
Luncheon ticket	7.88 RON	
Minimum monthly gross salary	RON 500 RON 1,000 for positions requiring a University degree	
Average monthly gross salary (INSSE February 2008)	1,543 RON	
Per diem (in Romania)		
Employees in the public sector	13.00 RON	
Employees in the private sector (*2.5)	32.50 RON	

ORDER 282 dated 14 April 2008 to amend and complement Classification of Occupations in Romania - COR (Official Gazette 314/2008)

ORDER 605 dated 8 April 2008 to approve Procedures for ex officio deregistration of taxable entities under the scope of VAT which have been declared inactive (Official Gazette 301/2008)

REMINDER – Adjustment to taxable profit regarding closed fiscal years in cases accounting error correction

We remind that in accordance with provisions of the Fiscal Code (article 19) and Norms for application of the Fiscal Code, revenue and expenses which were inaccurately recorded or omitted are corrected by adjusting taxable profit for the tax period they refer to.

When improper recording or omission of revenue or expense is discovered after the submission of the annual corporate tax return, **the taxpayer must submit an adjusted corporate tax return for the year it refers to.** In case this adjustment triggers an additional corporate tax to be paid, the taxpayer is also liable for interest and penalties for late payment of this additional corporate tax in accordance with the law.

REMINDER - Obligation to prepare financial statements

- Permanent establishments of legal entities in Romania with registered headquarters abroad must submit financial statements.

- Fiscal representatives which are legal entities must maintain accounting records and prepare annual financial statements as well as an Accounting report as at 30 June in accordance with the Law on Accountancy 82/1991, republished with its further amendments and complements.

Source: Order 2374 dated 12 December 2007 to amend and complement OMFP 1752/2005 approving Accounting Regulations in conformity with European Directives (Official Gazette 25/2008)

REMINDER - Closing the 2007 financial year

- Treasury advances (previously recorded in account 542) which do not have a nil balance as at year-end must be disclosed on the Balance Sheet as Sundry Debtors (account 461).
- As requested as part of MEF guidance on the preparation of the financial statements, legal entities will disclose full staff costs including luncheon vouchers granted to employees on the "Income Statement" form row 16, "Salaries and indemnities."
- The amount which represents an increase in the "legal reserve" from current year profit in accordance with legal provisions is recorded in accounting records with the following general ledger entry: Debit 129 / Credit 106.
- The accounting profit remaining after such profit allocation is carried forward to the opening balance of the subsequent year in account 117 "Profit carried forward," and it will be subject to profit appropriation.

- Profit appropriation is recorded in accounting records after the General Shareholders' Meeting (G.S.M.) which approves the profit appropriation by recording dividends distributed to shareholders, amounts allocated to reserves and accounts in accordance with the law.
- An entity cannot adjust profit appropriation previously recorded in the general ledger.
- Accounts 121 and 129 are closed at the beginning of the year following the year in which annual financial statements are prepared. Consequently, the closing balances of these 2 accounts are disclosed on the Balance Sheet prepared for the financial year to which the annual financial statements refer.
- Loss carry forwards are recovered from profit of the financial year, from profit carried forward, from reserves, share capital premiums and share capital upon G.S.M. resolution, in accordance with legal provisions. In the absence of express legal provisions, the order in which accounting loss can be recovered is the decision of G.S.M. or the Board of Directors.

Signing 2007 annual financial statements

Annual financial statements are signed by the persons who are entitled to do so, their full name being clearly disclosed.

Regarding the quality of the persons who prepared them, they can be:

- Economic Director, chief accountant or any other person entitled to fulfil this position in accordance with the law;
- An individual or legal entity, licensed, member of the Romanian Body of Authorised and Chartered Accountants (CECCAR), their registration number with the professional body being disclosed.

Submitting 2007 annual financial statements

- Annual financial statements are prepared and submitted in the national currency.
- According to article 185 of Law 31/1990 on commercial companies, legal representatives must submit annual financial statements to the Trade Register in paper and in electronic format within 15 days of the G.S.M. at the latest.
- Infringements of the obligation to submit annual financial statements in due time is sanctioned by:
 - fines from RON 2,000 to RON 30,000 levied by the Financial Guard;
 - commercial company dissolution upon request of the National Office of Trade Register or any interested person, 6 months after expiry of due date.

MAY 2008 - AGENDA

Everyday - do not forget:

- To complete the petty cash register (or print the electronic version)
- To complete the purchase ledger and sales ledger

At month end - do not forget:

- To complete the journal ledger
- To register contracts concluded during the month for the services rendered by non-residents, with tax authorities
- To organize a stock count of inventories if the enterprise does not use a perpetual inventory system
- To issue final invoices for the month of May 2008 (but be aware that the deadline of the 15th of the following month applies).

To comply with new requirements regarding VAT:

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

- Check the validity of the registration code under the scope of VAT mentioned on invoices received
- Check the 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 the ledger of goods received
- Maintain the ledger of non-transfer of goods
- Mention which exchange rate will prevail (NBR or commercial bank) in contracts with foreign partners.

During the month - do not forget:

That Thursday 1 May was a legal holiday

That Monday 12 May is the last day to submit:

- Return on collection of hotel tax

That Monday 12 May is the last day to pay:

- Hotel tax
- Advertising services tax

That Tuesday 15 May is the last day to submit:

- INTRASTAT statement for April 2008 (submit on-line)
- Special income statement, code 14.13.01.13. Form 200 is to be filed by persons who obtain income (cash or in kind) from:
 - Independent activities;
 - Rental activities of personal or real property;
 - Agricultural activities taxed in current value system based on single entry accounting information;
 - Capital gains on sale of securities.
- Statement regarding income obtained from abroad, code 14.13.01.13/7. Form 201 is prepared by natural persons domiciled in Romania, who obtain income from abroad due to their activity abroad. For each income source country and for each category of income, a separate statement is to be submitted by the taxpayers.
- Application regarding the destination of the amount representing 2% of the annual income tax, code 14.13.04.13. Form 230 is to be filed by natural persons who obtained salary income in 2007 and wish to sponsor legal non-profit entities with an amount of up to 2% of annual tax. A copy of tax form F1 or F2 is to be attached to the application.
- Application regarding the destination of the amount representing 2% from annual income tax, code 14.13.04.13/1. Form 231 is to be filed by natural persons who obtained agricultural income and wish to sponsor, with an amount of 2% of annual tax, legal non-profit entities or to be refunded for private scholarships they support.

That 15 days after the approbation of the financial statements by the Shareholders General meeting, the financial statements must be submitted to the Trade Register.

That Monday 26 May is the last day to submit:

- State consolidated budget liability return (form 100)
- Social insurance and special funds liability return (form 102)
- Excise tax return (form 103)
- VAT return (form 300)
- Social security statement with list of insured persons
- Social security statement regarding liabilities to the National Fund for health insurance, medical leave and compensation from health insurance
- List of insured employees and health contribution to social health insurance fund
- Unemployment fund statement with list of insured persons

- Tax return for commission due by employers to the Labour Inspectorate (ITM)
- Statement of income obtained from abroad by individuals who carry out activity in Romania and by Romanian citizens who are employees of diplomatic missions and consular posts accredited in Romania (form 224)
- Special VAT return for VAT non payers (form 301)
- Environment Fund Statement

That Monday 26 May is the last day to pay:

- Excise taxes
- Tax on crude oil and natural gas from domestic production
- Withholding tax on non-resident income
- VAT
- Salary tax
- Tax on income from independent activities, withheld at source
- Tax on interest income
- Tax on investment income
- Tax on pension income
- Tax on income from prizes and gambling
- Tax on income from other sources
- Social security contribution
- Health insurance contribution
- Medical leave contribution and health insurance allowance
- Unemployment contribution
- Contribution to fund to guarantee payment of salary liabilities
- Commission to ITM for holding and updating Labour books
- Contribution to work accident and occupational disease fund
- Contributions for non employment of disabled persons
- Contributions to the Environment Fund
- Gambling tax.

That Tuesday 29 May is the last day to submit Financial Statements as at 31.12.2007

- for commercial companies, national companies, "regii autonome," national institutes for research and development
- for permanent establishments of legal entities in Romania with registered headquarters abroad
- for the Fiscal representative which is a legal entity.

IMPORTANT

Once the 2007 financial statements are submitted, the very last operations to complete the accounting and fiscal evidence of the year are:

- Complete the Register of fiscal evidence
- Maintain the Inventory Register
- Check that the minutes of the inventory committee and decisions for writing off assets are signed
- Archive the primary accounting documents (which ought to be kept for 10/15 years except if a MEF Order sets the period for retention to 5 years);
- Retention period for financial statements has been reduced to 10 years per Law 259 dated 19 July 2007 to amend and complement Law 82/1991 (Official Gazette 506/2007).

All forms mentioned above as well as guidance on their preparation may be downloaded from the Ministry of Public Finance website: www.mfinante.ro





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ACCOUNTING AND PAYROLL
EXPERT TEAM

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 team specialised in payroll administration on behalf of the client.

We provide a full range of accounting services, payroll services, local tax compliance and tax advice, as well as services tailored to your company needs:

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



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