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ORDER 958 dated 24 June 2008 to approve modalities of Accounting Report as at 30 June 2008 for economic operators (Official Gazette 499/2008)

Economic operators irrespective of their form of organisation or shareholding and even if under a derogatory declaration regime must prepare and submit an Accounting Report as at 30 June 2008 to the local units of Ministry of Economy and Finance.

Accounting Reports as at 30 June 2008 must be submitted by **15 August 2008**. The deadline is the same for submitting the statement of non activity prepared by economic operators which have not carried out any activity from set up date until 30 June 2008 or are under the process of liquidation.

ORDER 464 dated 18 July 2008 to set the face value of a luncheon voucher for the second half of 2008 (Official Gazette 562/2008)

For the second half of 2008, starting in September, the face value of a luncheon voucher becomes **RON 8.31**.

BE AWARE! Computation of compensation for days off

In accordance with article 145 points 1 and 2 of the Labour Code:

"Compensation for paid holidays cannot be less than base salary, compensation and bonuses with a permanent feature to which the employee is entitled for the respective period.

Compensation for paid holidays represents the daily average of employee's rights for the 3 months prior to the month when vacation is taken, multiplied by the number of days off".

An example of computation for days off taken in July 2008:

Month	Base salary with permanent compensation and bonuses	Working days
April 2008	RON 1,700	21
May 2008	RON 1,700	21
June 2008	RON 1,700	21
Total 3 last months	RON 5,100	63
July 2008	RON 1,700	23

Daily average (5,100/63): **RON 80.95**

Daily average for the month of JULY (1,700/23): **RON 73.91**

For computing compensation for days off, the 2 averages are compared and the more favourable to the employee is chosen.

Thus, assuming the employee was on vacation for the full month of July, compensation paid will be:
23 days off * RON 80.95 = RON 1,854

The outcome is RON 154 higher than the base salary and permanent compensation/bonus the employee would have received if he/she would have worked the entire month.

Keep in mind that an employee is not entitled to receive luncheon vouchers for the number of days he/she was on vacation.

EMERGENCY ORDINANCE 91 dated 24 June 2008 to amend and complement Law 571/2003 – Fiscal Code (Official Gazette 480/2008)

The main amendments which enter into force **1st January 2009** are:

Tax rate for dividends obtained in Romania by non-residents is reduced from 16% to 10% both for EU and EAFT (European Free Trade Association) resident enterprises.

- ☑ 0% tax rate on dividends which currently applies to EU resident enterprises will also apply to EAFT resident enterprises under the same conditions as EU resident entities which currently prevail in the Fiscal Code are met, i.e. the beneficiary of the dividend has been holding at least a 15% (10% starting 2009) ownership interest in the Romanian legal entity for a continuous period of at least 2 years on the day the dividends are paid.
- ☑ Tax rate on interest and royalties is reduced to 10% (and to 0% starting 2011) which presently applies to enterprises of EU member States which meet conditions set by the Fiscal Code will also apply to EAFT member States enterprises, i.e. the beneficiary holds at least a 25% ownership interest (in number of shares or value) of the Romanian legal entity for a continuous period of at least 2 years as of the payment date of interest or royalties.

Income derived, by resident and non-resident natural persons and by non-resident legal entities, from holding and trading State bonds and/or bonds issued by local authorities is no longer taxable.

This Ordinance also amends the period during which tax losses can be carried forward: the **tax loss** of a year starting in 2009, set on the corporate tax return, **is recovered** from taxable profits obtained during **the 7 next consecutive years** (versus 5 presently), in the order profits are posted, at each corporate tax payment due date.

In cases of taxpayers which were subject to micro enterprise income taxes and which have posted tax losses prior to publication of this Ordinance, this loss will be recovered as follows:

- ☑ Within the limit of 5 years starting the date losses were posted, when the taxpayer has returned to the regime of corporate tax prior to 1st January 2009.
- ☑ Within the limit of 7 years starting the date losses were posted, in case the taxpayer has returned to the regime of corporate tax after 1st January 2009.

Members of the 3 main European organisations are summarized below:

- ☑ **European Union (E.U.)** which presently has 27 member States: Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Great Britain, Greece, Holland, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Poland, Portugal, Romania, Slovakia, Slovenia, Spain and Sweden.
- ☑ **European Association for Free Trade (E.A.F.T.)** member States are presently: Iceland, Liechtenstein, Norway and Switzerland.
- ☑ **European Economic Area (E.E.A.)** which comprises of all 27 EU member States as well as 3 EAFT States: Iceland, Liechtenstein and Norway. Swiss citizens have declined to join, by referendum in 1992.

ORDER 1706 dated 30 May 2008 to approve procedures for determination, payment and adjustment of capital gain tax on disposal of personal real estate property as well as the model and content of forms set by Title III of the Fiscal Code with its further amendments and complements (Official Gazette 533/2008)

This Order approves the new forms to be used to declare capital gains realized by natural persons on disposal of personal real estate property as well as the procedure to pay the tax which is due and eventual adjustments.

Transactions carried out through a notary

Capital gain tax on disposal on personal real estate property is computed and collected by the notary. The notary must declare this tax in form 100 "State consolidated budget liability return" on a monthly basis, by the 25th of the month which follows the month when this tax was computed and collected.

Payment of the tax withheld by the notary is made monthly, by the 25th of the month which follows the month when this tax was collected.

In addition, the notary must submit form 208 "Informative statement on capital gain tax on disposal of personal real estate property" twice a year, by the 25th of the month which follows the end of the 6 month period when the transaction occurred.

Transactions concluded through judicial proceedings

The amount of the capital gain tax realized by natural persons further to disposal of real estate property is determined by tax authorities based on information which judicial authorities must provide to tax authorities within 30 days from the date the decision is final and binding.

Tax authorities in charge issue a tax resolution within 15 days from receipt of information provided by judicial authorities. In case judicial authorities do not provide the tax authorities with information on time, upon the taxpayer's request, tax authorities can issue a tax resolution on the basis of the information provided by the taxpayer and eventual adjustments are further made upon reception of information provided by judicial authorities.

Capital gain tax on disposal on personal real estate property is to be paid within 60 days from communication of the tax resolution.

Transactions through means other than by notary or judicial proceedings

Natural persons who realize capital gains on disposal on personal real estate property must submit form 209 "Declaration on capital gains on disposal on personal real estate property" within 10 days from disposal date.

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Within 15 days of submission of the declaration, tax authorities determine the amount of the tax which is due and issues a tax resolution. The tax payment is to be made within 60 days from communication of the tax resolution.

ORDER 986 dated 30 June 2008 to approve procedures to determine tax on pollution from vehicles (Official Gazette 498/2008)

Tax on pollution from vehicles, regulated by Government Emergency Ordinance 50/2008 which established the tax and Implementation Norms approved by Decision 686/2008, is determined by tax authorities in charge under the subordination of ANAF.

A natural person or legal entity intending to register a vehicle submits an application to the tax authorities accompanied by the vehicle identity card and, in case a second hand vehicle was purchased in another member State, the following documents in original and copy:

- a document which discloses the date of first registration
- outcome of the technical expertise
- declaration under own responsibility.

The difference between the amount paid during the period 1st January 2007 – 30 June 2008 regarding special tax on tourism cars/vehicles and the tax on pollution as per the application of the new provisions will be reimbursed to the taxpayer upon request.

To be refunded the difference, the taxpayer must submit a refund application with tax authorities accompanied by (in original or in copy):

- document which proves the special tax payment (fiscal receipt/payment order)
- copy of the vehicle identity card and registration certificate (whose originals also have to be presented).

In case the vehicle is the object of a lease contract, the documents mentioned above are enclosed in copies, with a declaration under own responsibility stating they are conform to the originals.

Regarding refund applications submitted at tax authorities before the provisions of OUG 50/2008 enter into force, the legal timeframe for processing these applications starts 1st July 2008.

ORDER 2036 dated 1st July 2008 to amend and complement OMFP 753/2006 to organise administration activity of large taxpayers (Official Gazette 504/2008)

Administration of newly set up taxpayers which meet the selection criteria will be handled by the General Inspectorate for administration of large taxpayers within 10 days of their registration with the Trade Register.

Large taxpayers with prior year turnover below the threshold to qualify as a large taxpayer as well as the newly set up taxpayers which do not invest up to the level set per law lose this status if, during 4 consecutive years, the selection criteria are not met.

By derogation to the present provisions, the newly set up taxpayers are registered as large taxpayers if they commit under their own responsibility, at set up date, to investing the RON equivalent of Euro 400 million.

Taxpayers will submit such a declaration under own responsibility to the tax authority for the registered headquarters within 5 days starting the date of registration with the Trade Register.

ORDER 1026 dated 4 July 2008 to amend the method for distribution of amounts paid by taxpayers into the sole account and to settle these tax liabilities, approved by Order of ANAF President 1314/2007 (Official Gazette 522/2008)

Overpayments made by taxpayers to the sole account in respect of liabilities to the State Budget, i.e. liabilities towards the budget of social insurance and special funds are netted off *ex officio* on the 10th of the following month at the latest against outstanding liabilities towards these budgets and the remaining difference being further netted off proportionally with liabilities towards other budgets at the same date.

DECISION 742 dated 9 July 2008 to amend and complement Implementation Norms of OG 75/2001 regarding organisation and operation of fiscal files, approved by Decision 31/2003 (Official Gazette 541/2008)

In the Appendix to the Decision, among the facts which represent breach of the law and which are noted in the taxpayer fiscal file, we mention:

Description of the fact	Text of law where the fact is presented as well as its punishment	Sanction for breach of law
To withhold and not pay, intentionally, past 30 days of due date, amounts representing taxes or contributions under withholding regime	Art. 6 of Law 241/2005 to prevent and fight fiscal evasion	Jail from 1 to 3 years or fine
Omission, totally or partially, from accounting records or other legal documents, of commercial operations or income obtained in order to avoid fiscal obligations	Art. 9 point (1) letter b) of Law 241/2005 to prevent and fight fiscal evasion	Jail from 2 to 8 years and loss of some rights. In cases where the fact has provoked a prejudice of the RON equivalent of over Euro 100,000, minimum and maximum punishment set by law is increased by 2 years.
For the employer, withholding employee contributions for unemployment insurance budget and not paying these contributions to the accounts set by legislation in force within 15 days	Art. 112 of Law 76/2002 on unemployment insurance and to enhance employment	Jail from 3 to 6 months or fine
To hold, irrespective of status, tangible items, bonds, petty cash and other rights and liabilities as well to carry out economic operations without recording them in accounting records	Art. 41 point 1 of accountancy Law 82/1991	Infringement fine between RON 1,000 and RON 10,000

INSTRUCTION 19 dated 1st July 2008 regarding the reference interest rate of the National Bank of Romania (NBR) for the month of July 2008 (Official Gazette 507/2008)

For the month of July 2008, the NBR reference interest rate is 9.75 % per annum.

ORDER 11 dated 7 July 2008 to approve the modalities of Accounting Report as at 30 June 2008 for insurance and insurance- reinsurance companies as well as for insurance/reinsurance brokers (Official Gazette 536/2008)

ORDER of the National Commission of stocks and shares (C.N.V.M.) 83/2008 to approve Regulation 5 dated 25 June 2008 to establish prevention measures and to fight money laundering and financing of terrorism acts through capital markets (Official Gazette 525/2008)

To ward off and to prevent regulated entities from being implicated in suspect operations of money laundering and financing of terrorism acts, an adequate training of staff involved must be implemented.

Regulated entities (entities whose activity is licensed, regulated and/or monitored by C.N.V.M. while fulfilling its legal duties) must prepare, establish and implement policies, procedures and adequate mechanisms regarding knowledge of clients, reports, conservation of supporting documents, internal control, assessment and risk management, management of conformity and communication. For this purpose, a written client acceptance procedure must be drafted.

Regulated entities must identify clients, check and verify their identity as well as those of true beneficiaries before initiating any business relation or carry out transactions on behalf of the client/true beneficiary.

ORDER 451 dated 3 June 2008 to amend and complement the Classification of Occupations in Romania – "COR" (Official Gazette 521/ 2008)

LAW 134 dated 4 July 2008 to approve OUG 56/2007 on employment and secondment of foreigners in Romania (Official Gazette 522/2008)

This Law brings changes to the procedure for obtaining a work permit for foreigners who intend to carry out activity in Romania as seconded by their employers established abroad. Among them, we mention:

- The concept of secondee has been redefined, i.e. the secondee must prove he/she holds a professional qualification in accordance with the activity he/she will carry out in Romania.
- The qualified foreigner can carry out his/her activity in Romania in the following cases:
 - He/she is seconded in Romania, on behalf of an enterprise and under its coordination based on a contract concluded between the enterprise which seconds its staff and the beneficiary of this service which carries out its activity in Romania;
 - He/she is seconded at an enterprise located in Romania or at an enterprise which belongs to a group of enterprises located in Romania.
- The employer must indeed carry out the activity for which the work permit is applied for.
- The employer can appoint a legal representative to obtain the work permit.

The employer (Romanian legal entity, Representative Office, branch or subsidiary) has to present a tax certificate to obtain a work permit for the secondee.

The provision according to which a work permit is not necessary for secondments for less than 60 days is abrogated. Therefore, a work permit is mandatory for all secondees, irrespective of the secondment duration.

Upon issuance of the work permit, the employer will pay a fee of the equivalent of Euro 200 (at the NBR exchange rate prevailing on payment date). For work permits issued for students or seasonal workers, the fee is Euro 50 (at the NBR exchange rate prevailing on payment date).

These Amendments enter into force on 13 July 2008.

Citizens of EU member States do not fall in the scope of this Law.

ORDER 463 dated 18 July 2008 to set the amount of the monthly indexed amount which can be granted as nursery vouchers for the second half of 2008 (Official Gazette 562/2008)

For the second half of 2008, starting August 2008, the monthly amount of nursery vouchers which can be granted is RON 340.

EMERGENCY ORDINANCE 93/2008 to amend and complement Law 95/2006 on the reform in the domain of health (Official Gazette 484/2008)

Changes in the health contribution base for the insured person

The Ordinance introduces a new paragraph 21 to the article 257 of Law 95/2006 as follows: "in case a person has income which is not taxable, the contribution is computed on the realized income".

In addition, paragraph 3 of the article 257 has been amended as follows: "in case of persons who obtained in the same time income with the nature set by the point 2 letters (a) - (e), point (21) and article 213, point 2 letter (h), the contribution is computed on all these income".

Starting 1st July 2008, the individual health contribution rate for the insured person has been reduced from 6.5% to 5.5% (as per Law 387/2007).

REMINDER – Statistical report to NBR regarding non monetary transactions

In accordance with article 2 of Norm 26 of National Bank of Romania dated 12 December 2006, residents who carry out non-monetary operations with non-residents directly and not through banking institutions must report these transactions to NBR – Inspectorate for Statistics.

Non-monetary transactions are performed without transfers of funds, wholly or partially: barter transactions, netting or clearing agreements.

The reporting form can be downloaded from NBR website (http://www.bnro.ro/Ro/Legi/BOP/N26_a6.pdf). It must be filled out and transmitted to NBR by the residents who perform non-monetary transactions on a regular basis within a group, the regular nettings being tracked in special accounts by the clearing participants. It must also be transmitted by residents who occasionally carry out contra netting transactions with non-residents.

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% (*)	5.5%
* NOTE: Starting 1st December 2008, employer contributions to health insurance will be 5.2%.		
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 (8,31 RON starting 1st September 2008)	
Minimum monthly gross salary	RON 500 RON 540 starting 1st October 2008 RON 1,000 for positions requiring a University degree RON 1,080 starting 1st October 2008	
Average monthly gross salary (INSSE May 2008)	1,704 RON	
Per diem (in Romania)		
Employees in the public sector	13.00 RON	
Employees in the private sector (*2.5)	32.50 RON	

REMINDER – Recruitment of pupils and students during legal holidays **To comply with new requirements regarding VAT:**

As per Decision 726/2007 (Official Gazette 477/2007), employers recruiting pupils or students during legal holidays will benefit from monthly financial support in the equivalent value of 50% of the minimum guaranteed national gross income for each pupil or student recruited but not for more than 60 working days in a calendar year. To benefit from this aid, employers must sign a convention with the Unemployment Agency within 30 days of the date of employing a pupil or a student during the holidays.

Employers deduct the financial benefit from its unemployment payment contributions.

AUGUST 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 services rendered by non-residents, with tax authorities
- To organise a stock count of inventories if the enterprise does not use a perpetual inventory system
- To issue final invoices for the month of August 2008 (but be aware that the deadline of the 15th of the following month applies).

- 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 Monday 11 August is the last day to submit:**

- Return on collection of hotel tax

That Monday 11 August is the last day to pay:

- Hotel tax
- Advertising services tax

That Friday 15 August the last day to submit:

- INTRASTAT statement for July 2008 (submit on-line)

That Friday 15 August, is the last day to submit accounting reports as at 30 June 2008 for all companies (except for not-for-profit entities).

That Monday 25 August 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 25 August 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.

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



ENJOY YOUR VACATION!!!



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