

56 Boulevard Dacia,
District 2, Bucharest
Tel: +40 (0) 31-809 2739
Fax: +40 (0) 31-805 7739
Email: office@apex-team.ro

Contents:

- Significant increase in all pension contributions starting February 2009
- Luncheon voucher – RON 8.48 starting 1st March 2009
- Percentage of pension contribution redistributed from State to private pension funds remains unchanged in 2009
- Preparation of financial statements as at 31 December 2008
- Consolidated financial statements
- NBR interest rate for February 2009
- Sole customs registration code for enterprises valid in Romania and the entire EU
- Determination of compensation for raising a child
- Income certificate issued by the tax authorities to individuals
- Holiday vouchers
- Notification regarding processing of personal data
- Reminder – legal framework for accounting forms
- Key HR figures
- MARCH 2009 Agenda

LAW 19 dated 27 February 2009 regarding 2009 Budget for State social insurance (Official Gazette 122/2009)

This Law amends the **contribution rates to State social insurance** applied to salaries starting with **February 2009** payroll as follows:

- 31.3% for normal working conditions: **20.8%** for the employer (vs. 18.5%) and **10.5%** for the employee (vs. 9.5%);
- 36.3% for particular working conditions: **25.8%** for the employer (vs. 23.5%) and **10.5%** for the employee (vs. 9.5%);
- 41.3% for special working conditions: **30.8%** for the employer (vs. 28.5%) and **10.5%** for the employee (vs. 9.5%).

The average 2009 gross salary which has been used for the preparation of 2009 Budget for State social insurance is RON 1,693.

ORDER 161 dated 12 February 2009 to set the face value of luncheon vouchers for the first half of 2009 (Official Gazette 95/2009)

For the first half of 2009, starting **March 2009**, the face value of a luncheon voucher is **RON 8.48** vs. the current value of RON 8.31.

EMERGENCY ORDINANCE 4 dated 11 February 2009 to take budgetary measures (Official Gazette 92/2009)

The contribution rate redistributed from the mandatory private regime (pillar II) is also kept at 2% of the gross salary for 2009. As per Law 411/2004, contributions to privately administered pension funds was set at 2% for the first year of collection and was planned to increase by 0.5% each year for the subsequent 8 years, which means that it should have increased to 2.5% in 2009.

PREPARATION OF FINANCIAL STATEMENTS AS AT 31 DECEMBER 2008

The Ministry of Finance has published Norms for the preparation of financial statements as at 31.12.2008 which are included in the guidance on their preparation provided by the MEF. The "Practical Guide for application of Accounting Regulations in accordance with European Directives approved by the Order of the Ministry of Finance 1752/2005" has been posted on the www.mfinante.ro website.

Annual Financial Statements (comprehensive or simplified)

Comprehensive annual financial statements include:

- balance sheet;
- income statement;
- statement of changes in equity;
- cash flow statement;
- disclosure notes.

They will be accompanied by the "Informative data" form (code 30) and the "Statement of fixed assets" form (code 40).

Comprehensive annual financial statements are prepared by the following persons:

- Legal entities who, as at the balance sheet date, exceed 2 of the following 3 criteria:
 - o total Assets Euro 3,650,000;
 - o net turnover Euro 7,300,000;
 - o average headcount 50.

Commercial companies who are listed on a regulated market irrespective of their size. Legal entities that, as at balance sheet date, do not exceed 2 of the 3 criteria will prepare simplified annual financial statements.

Simplified annual financial statements include:

- short balance sheet;
- income statement;
- disclosure notes.

The simplified annual financial statements will be accompanied by the "Informative data" form (code 30) and the "Statement of fixed assets" form (code 40). The Statement of changes in equity and Cash flow statements are optional.

Legal entities who prepared comprehensive annual financial statements in 2007 will prepare simplified annual financial statements as at 31.12.2008 only in the case 2008 is the second consecutive financial year when 2 out of the 3 criteria have not been exceeded. By consecutive year is meant the financial year prior to the one for which annual financial statements are prepared and the current financial year, i.e. the one for which annual financial statements are prepared.

Legal entities who prepared simplified annual financial statements as at 31.12.2007 will prepare comprehensive annual financial statements as at 31.12.2008 only when 2008 is the second consecutive financial year when 2 out of the 3 criteria have been exceeded.

From an accounting point of view, permanent establishments of legal entities in Romania with registered headquarters abroad represent sub units which are not legal entities. These permanent establishments must prepare however annual financial statements as required by Accountancy Law 82/1991.

Payroll expenses and luncheon vouchers

Legal entities will disclose on the "Income Statement" form, row 16 "Salaries and indemnities," the entire staff costs including luncheon vouchers granted to employees.

Profit allocation

- Recording appropriation of profit in the books is made after the General Shareholders Meeting (G.S.M.) which approves the profit appropriation by booking dividends distributed to shareholders, amounts allocated to reserves and others as per law.
- Closing the accounts 121 and 129 is made at the beginning of the year following the year for which annual financial statements are prepared. Consequently, these 2 accounts are disclosed with their closing balance in the balance sheet prepared for the financial year to which the annual financial statements refer.

Signing 2008 annual financial statements

Annual financial statements are signed by persons who are entitled, 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 as per law;
- Natural or legal entity, licensed, member of the Romanian Body of Authorised and Chartered Accountants (CECCAR), their registration number at the professional body being disclosed.

Audit

Annual financial statements prepared by a commercial company which is listed on a regulated market are to be audited. This also applies to entities qualified as being of public interest. Joint Stock Companies opting for the dualist system (Executive Board under the control of a Supervisory Board) are subject to a financial audit.

Irrespective of the legal status (S.A. or SRL), the financial statements prepared by legal entities exceeding criteria set by point

3 paragraph 1 of Accounting Regulations in conformity with CEE IV Directive are to be audited. Thus, the financial statements must be audited when 2 of 3 limits mentioned below have been exceeded for 2 consecutive financial years:

- total Assets Euro 3,650,000;
- net turnover Euro 7,300,000;
- average headcount 50.

Submission

Annual financial statements are to be submitted to the local units of the Ministry of Economy and Finance (MEF) as follows:

- Legal entities which, from set up date to 31.12.2008, have not carried out any activity will submit a statement regarding this position 60 days after year end at the latest. This statement under own responsibility will disclose full identification of the entity, i.e.:
 - o Full name (as per registration certificate);
 - o Address and phone number;
 - o Registration number at the Trade Register;
 - o Fiscal Code / sole registration code;
 - o Share Capital.
- For commercial companies, national companies, "regii autonome," national institutes for research and development, the deadline for submitting annual financial statements is at the latest 150 days after year-end – **30 May 2009**. Financial statements will be accompanied by:
 - o Director's report;
 - o A written representation by the legal representative stating he/she is responsible for the annual financial statements and confirms that the financial statements were prepared in accordance with provisions of article 30 of Accountancy Law 82/1991 republished and with Accounting Regulations in conformity with CEE IV Directive;
 - o Audit report or report of the "cenzori" committee, if applicable;
 - o The resolution of the General Shareholder Meeting (SGM) regarding profit allocation even if the Norms refer to "proposal for profit allocation".

We mention that according to article 185 of Law 31/1990 on commercial companies, legal representatives must submit annual financial statements with the Trade Register in paper and electronic format within 15 days after G.S.M.

REMINDER – CONSOLIDATED FINANCIAL STATEMENTS

As per provisions of Decision 1579/2007 to amend and complement Implementation Norms of Law 571 – Fiscal Code approved by Government Decision 44/2004 (Official Gazette 894/2007), a parent company is exempted from having to prepare consolidated financial statements if, as at the consolidated financial statement date, the companies which are to be consolidated do not exceed together on the basis of their most recent stand-alone financial statements, 2 of the 3 following criteria:

- total assets – Euro 17,520,000;

Join the team!

APEX Team recruits accountants and payroll specialists.

Send your C.V. at recrutare@apex-team.ro

Your application will be treated confidentially.

- ☑ net turnover – Euro 35,040,000;
- ☑ average headcount during financial year - 250.

Companies which must prepare annual consolidated financial statements may prepare them in accordance either with Accounting Regulations in conformity with Directive VII of the European Economic Community or with IFRS.

Regarding accounting regulations applicable to consolidated financial statements, we mention provisions of Law 259 dated 19 July 2007 to amend and complement the Accountancy Law 82/1991 (Official Gazette 506/2007):

- ☑ Parent companies must prepare annual consolidated financial statements;
- ☑ Legal entities which are part of a group and enter into the consolidation perimeter of the parent company must have their stand-alone financial statements audited;
- ☑ Annual consolidated financial statements must be accompanied by a written representation of the parent company Director in which his/her responsibility for the prepared consolidated financial statements is stated and the Director further confirms that:
 - o Accounting policies used in preparing annual consolidated financial statements are in accordance with applicable accounting regulations;
 - o The annual consolidated financial statements present a fair view of the financial position, financial performance as well as other information regarding the group activity.
- ☑ Members of administration, management and supervision bodies have the obligation to ensure that the annual consolidated financial statements are prepared and published in accordance with Order 917 dated 28 June 2005. Publication means submission of documents set per law at the Trade Register and disclosure of indicators which have a public feature in accordance with modalities set by this institution, i.e. publication of these indicators on the website of the Trade Register or remittance upon request of certified copies of the full set of annual consolidated financial statements together with the Director's report and the audit report.
- ☑ Annual consolidated financial statements are prepared within 8 months after the end of parent company financial year (i.e. by 31 August 2009 for the financial year ended as at 31 December 2008).

INSTRUCTION 5 dated 4 February 2009 regarding the reference interest rate of the National Bank of Romania (NBR) for February 2009 (Official Gazette 75/2009)

For the month of February 2009, the NBR reference interest rate is 10.25% per annum.

ORDER 691 dated 18 February 2009 to approve technical Norms regarding registration and identification of economic operators established in Romania (Official Gazette 106/2009)

This Order approves technical Norms regarding registration and identification of economic operators established in Romania. Between **23 February and 31 March 2009**, economic operators wanting to be disclosed in this date base will **apply for an EORI registration and identification** code with the **Customs authority**. The EORI code is unique and valid in relations with all customs points within the European Union.

For the scope of carrying out customs operations in optimal conditions after 1st July 2009, the National Customs Authority is building an EORI database between 23 February and 31 March 2009 which will be transmitted to the European Commission.

DECISION 50 dated 29 January 2009 to amend Implementation Norms for determination of contribution to work accident and occupational disease fund, approved by Government Decision 144/2008 (Official gazette 63/2009)

The degree of risk triggers a contribution from 0.15% to 0.85%, calculated by applying the appropriate tax rate to full monthly gross salary. The contribution rates set by GEO 226/30.12.2008 are thus confirmed.

Implementation INSTRUCTIONS dated 4 February 2009 regarding some provisions of Implementation Norms of GEO 148/2005 to support families who have a child to raise, approved by Government Decision 1025/2006 (Official Gazette 87/2009)

As per these Instructions, revenue which are to be taken into account to calculate the amount of compensation to raise a child represents, depending on the case, amounts received as salaries which are determined as follows:

- ☑ Salary with respect to the main occupation: amount received by the entitled person, resulting after application of the 16% rate to the taxable base; the taxable base being determined as the difference between gross income and the following deductions pertaining to the respective month: mandatory employee contributions, personal deductions, contributions to an optional pension fund and contribution to a trade union;
- ☑ Revenue obtained from other sources: amount received by the entitled person after application of the 16% rate to the taxable base, determined as the difference between gross income and mandatory contributions for each source from which revenue is derived.

ORDER 193 dated 17 February 2009 to approve the model and content of the "Income certificate" and "Application for an income certificate" forms for natural persons (Official Gazette 109/2009)

This Order approves the model and content of the following forms:

- ☑ "Income certificate," code 14.13.21.13;
- ☑ "Application for an income certificate," code 14.13.25.13.

The "Income certificate" form represents the document which certifies that a natural person is enclosed in the records maintained by tax authorities based on submitted returns and has income declared or assessed during the fiscal year.

The income certificate is issued by the tax authorities upon request of the individual who completes an "Application for an income certificate" form.

EMERGENCY ORDINANCE 8 dated 18 February 2009 for granting holiday vouchers (Official Gazette 110/2009)

Among the main dispositions, we mention:

- ☑ Employers who legally hire employees through labour contracts may grant vouchers to employees, named holiday vouchers;
- ☑ The amount which may be granted to an employee during a fiscal year in the form of holiday vouchers is capped at 6 minimum gross salaries (*i.e. RON 3,600 RON to date*);
- ☑ Holiday vouchers are fully supported by the employer;
- ☑ The employer can grant holiday vouchers **only if the enterprise has posted a fiscal profit during the previous fiscal year** or has obtained income, if applicable;
- ☑ The minimum package of services which can be paid with holiday vouchers will be defined in Implementation Norms of the present Emergency Ordinance which will be approved by a Government Decision;
- ☑ Services which may be paid by holiday vouchers are ren-

H.R. KEY FIGURES

2009 Contribution	Employer (%)	Employee (%)
Social security contribution	20.8% for normal working conditions (*) 25.8% for particular working conditions (*) 30.8% for special working conditions (*) * New rates apply starting 1 st February 2009	10.5% (*)
Medical leave contribution and health insurance allowance	0.85%	
Work accident and occupational disease fund	0.15% - 0.85% depending on CAEN code for main activity	
Unemployment fund	0.5%	0.5%
Contribution to fund to guarantee payment of salary liabilities	0.25%	
Health insurance fund	5.2%	5.5%
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 600) for every 100 employees	
Minimum monthly gross salary	RON 600 for unqualified positions RON 720 for positions requiring High School RON 1,200 for positions requiring a University degree	
Luncheon voucher	RON 8.48 (prior to 1 st March RON 8.31 RON)	
Average monthly gross salary (INSSE December 2008)	2,023 RON	
Per diem (in Romania)		
Employees in the public sector	13.00 RON	
Employees in the private sector (*2.5)	32.50 RON	

dered by tourism enterprises licensed by the Ministry of Tourism;

- The employee to whom holiday vouchers are granted cannot benefit from a vacation bonus during the fiscal year;
- The holiday voucher is valid 1 year from its date of issue;
- The face value of the holiday vouchers can be RON 10, 20, 30, 40 and 50.
- The Implementation Norms will be issued within 15 days.

DECISION 95 dated 11 December 2008 to define the standard notification form set by Law 677/2001 regarding protection of persons with respect to processing data with personal data and of free transfer of data (Official Gazette 876/2008)

This Decision approves the standard notification set by Law 677/2001 regarding the protection of persons with respect to processing data with personal information and of free transfer of these data.

The new form enters in force 1st March 2009. Notification to the National Authority for monitoring processing of data with personal information may be made on-line at www.dataprotection.ro

Notification of processing data with personal details is not necessary when processing data with personal information pertaining to own employees or when external partners is made by public and private entities in order to comply with legal obligations (Decision 90 –Official Gazette 654/2006).

ORDER 93 dated 27 January 2009 to amend Order 1294/2007 of ANAF President regarding taxes, contributions and other amounts representing fiscal liabilities which are paid by the taxpayer into the sole account (Official Gazette 61/2009)

The Order adds "Tax on agricultural income" to the list of taxes which may be paid into the sole account.

ORDER 67 dated 22 January 2009 to amend and complement Order 819/2008 of ANAF President to approve Procedures to declare a taxpayer inactive (Official Gazette 60/2009)

DECISION 1 dated 15 January 2009 to approve Norms 1/2009 to amend and complement Norms 14/2007 regarding Accounting Regulations in conformity with the EU 4th Directive applicable to licensed, regulated and monitored entities by the Monitoring Committee for Private pension regimes (Official Gazette 45/2009)

ORDER 1 dated 5 February 2009 to approve Norms for closing financial year 2008 for companies in the insurance field (Official Gazette 91/2009)

DECISION 105 dated 18 February 2009 to abrogate Government Decision 831/1997 to approve standard forms in the financial and accounting area as well as the implementing norms for drafting and using these forms (Official Gazette 105/2009)

This Decision abrogates Decision 831/1997 which used to regulate standard forms in the financial and accounting domain and the implementing norms for their preparation and use. We remind that Decision 831/1997 was the main legal text regarding forms. Therefore, it is now **Order 3512 dated 27 November 2008 (Official Gazette 870/2008) regarding financial and accounting forms has now become the legal framework for the documents to use in this domain** (see Newsletter APEX Team no. 12_2008). This Order 3512/2008 also contains useful clarifications in case of registering purchases as expenses and not as inventory which is possible if the enterprise does not use a perpetual inventory system as Accountancy Law 82/1991 permits, even if most of Romanian enterprises keep using perpetual inventory system.

MARCH 2009 – AGENDA

Every day - do not forget:

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

At month end - do not forget:

- To complete the journal ledger
- To complete the Tax Evidence Register (to disclose com-

putation of the tax profit/loss from accounting profit/loss) if the annual corporate tax return (form 101) has been submitted by 16.02.2009

- 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 March 2009 (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 Monday 2 March was the last day to submit:

- Annual return on income tax withheld on income from independent activities
- Annual return for taxation of Representative Offices
- Fiscal forms (Forms F1 & F2) afferent to 2008.**

That Tuesday 10 March is the last day to submit:

- Return on collection of hotel tax

That Tuesday 10 March is the last day to pay:

- Hotel tax
- Advertising services tax

That Monday 16 March is the last day to submit:

- Annual income return for associations formed between natural persons which do not represent legal entities (form 204);
- INTRASTAT statement for February 2009.

That Monday 16 March is the last day to pay:

- Tax on independent activities (1st instalment)
- Tax on rental revenues (1st instalment)
- Tax on billboards (1st instalment)

That Wednesday 25 March 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 con-

- sular posts accredited in Romania (form 224)
- Special VAT return for VAT non payers (form 301)*
- Environment Fund Statement.

That Wednesday 25 March 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
- Contribution for non employment of disabled persons
- Contribution to the Environment Fund
- Gambling tax.

That Tuesday 31 March is the last day to submit:

- Statement under own responsibility of companies and operators in the field of road transport (as defined by OUG 109/2005) to determine the tax due for 2009. Thus, for each means of transport of goods or combination of vehicles with a total authorised weight of or over 12 tons, whether the vehicle has made or will make at least one operation of international road transport during the year must be declared.

That Tuesday 31 March is the last day to pay:

- Local tax on land, buildings and means of transport (1st instalment). The second and final instalment will be due on 30 September 2009.

IMPORTANT

All forms mentioned above as well as guidance on their preparation may be downloaded from the Ministry of Economy and Finance website: www.mfinante.ro The tax returns noted with an asterisk (*) can be submitted by remote means of electronic transmission by taxpayers which have opted to file their returns on-line and which hold a digital certificate.





56 Boulevard Dacia,
District 2, Bucharest

Tel: +40 (0) 31-809 2739

Tel: +40 (0) 74-520 2739

Fax: +40 (0) 31-805 7739

E-mail: office@apex-team.ro

Site: www.apex-team.ro

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**



The above information is a short summary of recently published information and is not intended to be advice on any particular matter. APEX Team International disclaims liability to any person in respect of anything done in reliance of the contents of these publications.