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ORDER 1879 dated 22 June 2010 to approve reporting procedures regarding Accounting Report of economic operators as at 30 June 2010 (Official Gazette 447/2010)

Economic operators, whatever form of organisation and ownership, must prepare and submit an Accounting Report as at 30 June 2010 with the local units of the Ministry of Public Finance (MFP).

The Accounting Report includes:

- Statement of assets, liabilities and equity (code 10);
- Income statement (code 20);
- Informative data (code 30).

The electronic format of the Accounting Report as at 30 June 2010 as well as forms and guidance on their preparation and control can be downloaded from the Ministry of Economy and Finance website: www.mfinante.ro or from the ANAF website: www.anaf.ro. Upon submission, the Accounting Report must be accompanied by the Trade Register certificate and of the summarized trial balance.

Economic operators which have not carried out any activity since set up date do not prepare an Accounting Report as at 30 June 2010 but their legal representative submits with the local units of MFP a statement under own responsibility in this respect which includes full identification data for the entity:

- Full name (as per Trade Register certificate);
- Address and phone number;
- Trade Register registration number;
- Tax registration code;
- Share capital.

A similar statement is submitted by the legal entity in the process of being liquidated as per law.

The Accounting Report as at 30 June 2010 as well as the statements of economic operators which have not carried out activity or are in liquidation is **submitted by 13 August 2010**. The Accounting Report can be filed at the registration desk of the local unit of MFP or sent by Post as registered mail.

Banking institutions, non banking financial institutions defined as per legal provisions, the Fund for guarantee of deposits in the banking sector, insurance, insurance-reinsurance and reinsurance companies as well as insurance/reinsurance brokers, entities licensed, regulated and monitored by the Monitoring Commission for Private Pension Funds, entities licensed, regulated and monitored by the National Securities Commission submit with the local units of MFP their Accounting Report as at 30 June 2010 in the format and at the deadline set by the regulations issued by the National Bank of Romania, the Monitoring Commission for Insurance, the Monitoring Commission for Private Pension Funds and the National Securities Commission.

We remind that entities under the derogatory regime for declarations (so called dormant) must submit their Accounting Report as at 30 June.

ORDER 2112 dated 30 June 2010 to approve application and issue Procedures for the certificate regarding premises with designation of registered headquarters, registration of the document which proves the right to use premises aimed to be registered headquarters as well as to approve model and content of forms (Official Gazette 443/2010)

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

- a) "Application for registration of the document which proves the right to use premises aimed to be registered headquarters and for issue of a certificate for the premises aimed to be registered headquarters," code M.F.P. 14.13.04.40;
- b) "Certificate of registration of the document which proves the right of use of premises aimed to be registered headquarters," code M.F.P. 14.13.02.40;
- c) "Certificate for the premises aimed to be registered headquarters ," code M.F.P. 14.13.21.40.

The application and issue procedure consists in submitting by the holder of the right of use with ANAF to which the building is allocated the "Application for registration of the document which proves the right of use of premises intended to be registered headquarters and for issue of a certificate for the premises aimed to be registered headquarters", accompanied by:

- Documents which prove the right of use such as ownership title, purchase contract, rental contract, contract for right of use free of charge ("comodat") or any other document which

proves the right of use;

- Identity card of the applicant and/or his/her empowered person, if applicable;
- Document which proves designation of the legal representative of the legal entity.

If the documents are filed at the registration desk of the tax authorities, originals must be presented together with copies which the tax authorities will certify as conforming to the original. If the documents are sent by post with registered mail, legalized copies must be submitted.

The application is processed within 5 business days, the outcome being the issue of the 2 documents:

- "Certificate of registration of the document which proves the right to use premises aimed to be registered headquarters";
- "Certificate for the premises aimed to be registered headquarters".

EMERGENCY ORDINANCE 54 dated 23 June 2010 regarding measures to fight tax evasion (Official Gazette 421/2010)

We return to amendments introduced to Law 31/1990 regarding commercial companies by Government Emergency Ordinance 54/2010 (see APEX Team Newsletter no. 6/2010).

Registration of commercial companies and change of registered headquarters

Upon registration of commercial companies and upon change of registered headquarters, the following will be presented at the Trade Register:

- document which proves the right to use premises aimed to be registered headquarters duly registered with ANAF in the area where the premises are located;
- a certificate issued by the tax authorities as per letter a) which proves the fact that the premises aimed to be registered headquarters have not been the object of another document which certifies the transmission of the right of use upon the same premises, at cost or free of charge or the existence of other contracts by which the right of use upon the same premises was transmitted, if any;
- in case it results from the certificate issued as per letter b) that other documents which certify the transmission of the right of use upon the same premises are already registered with the tax authorities, a statement under own responsibility **in a deed** regarding compliance with the provisions regarding registered headquarters will be submitted.

Provisions regarding registered headquarters:

Within the same premises, several companies may operate only when the building, due to its structure and useful area, permits several entities to operate in different rooms or different spaces obtained by partition. The number of entities which can operate in the premises cannot exceed the number of rooms or distinct areas resulting of partition.

The above mentioned amendments are implemented by ANAF Order 2112/2010 which sets the procedure applicable to any registration at the Trade Register or change of registered headquarters.

Disposal of shares

The resolution of the shareholders meeting must be registered with the Trade Register within 15 days in the scope of registration of mentions (*amendments*) and publication in the Official Gazette. We mention that disposal of shares must be approved by shareholders representing at least $\frac{3}{4}$ of share capital. The Trade Register transmits by electronic means to ANAF and to the General Inspectorate of Public Finance the resolution of the shareholders meeting.

Company creditors as well as any other person to whom disposal of shares decided by a resolution of the shareholders

may cause damages can file an application for opposition with judicial bodies, requiring compensation for the damage caused by the company or its shareholders, if applicable, or for introducing a claim of civil responsibility against the shareholder who intends to dispose of his/her shares if such is the case. Communication of opposition must be introduced within 30 days starting date of publication in the Official Gazette of the resolution of the shareholders meeting or of the amended constitutive deed.

The transmission of shares will be made, in absence of opposition, at expiry of the opposition period and, in case opposition has been introduced, at the date of communication of its rejection.

ORDER 1878 dated 22 June 2010 regarding preparation of annual financial statements by entities who have opted for a financial year different than calendar year, as per article 27 point 3 of Accountancy Law 82/1991 (Official Gazette 461/2010)

The order applies to branches established in Romania which belong to foreign legal entities, to subsidiaries of foreign parent companies or to subsidiaries of subsidiary's foreign parent companies which have opted for a financial year other than calendar year, as per article 27 point 3 of Accountancy Law 82/1991. Entities who are under the incidence of the present Order must comply with the following:

- prepare and submit annual financial statements as per provisions of the Order;
- inform the territorial unit of MFP in writing of financial year selected, as per article 27 point 3 of Accountancy Law 82/1991 and as per provisions of OMFP 864/2010 regarding matters regarding preparation of accounting reports and annual financial statements.

For this purpose, the entity must prove that it is the branch of a foreign legal entity or the subsidiary of a foreign parent company or the subsidiary of a subsidiary of a foreign parent company which has a financial year different from the calendar year.

Criteria of size used to set the preparation of comprehensive or simplified financial statements are the same as for entities whose financial year matches the calendar year.

Annual financial statements must be accompanied by a written statement of the legal representative of the entity in which responsibility for the preparation of annual financial statements in accordance with applicable accounting regulations is endorsed. As per article 29 point 1 of Law 82/1991, the annual financial statements will be accompanied by the Director's report, the audit report or the report of the "cenzori" if case and of the proposal for profit allocation or recovering accounting losses.

Upon preparation of the annual financial statements, entities which have opted for a financial year different from the calendar year must, for the first financial year which is not the calendar year:

- prepare, approve and submit the annual financial statements prepared at the set closing date with the Trade Register as per law in conditions set at article 27 point 3 of Law 82/1991;
- insure comparability of information regarding balances, transactions and other information comprised in the annual financial statements prepared for the first financial year different from calendar year as per article 27 point 3 of Law 82/1991. For this purpose, respective information must always cover a period of 12 months, i.e. 365 days, except for entities set up during the financial year. In addition, upon preparation of the comprehensive or simplified balance sheet, next to the amounts regarding the 2 consecutive periods, amounts as at 1st January of the financial year prior to the one in which the annual financial statements refer will be included in accordance with the structure of the

comprehensive or simplified balance sheet form disclosed in appendix to the Order.

For financial statements prepared starting the second financial year which differs from calendar year, entities which are subject to the present Order will comply with the required format as per applicable accounting regulations.

The electronic format of annual financial statements including forms and guidance on their preparation and control can be downloaded from the MFP website (and is different from the electronic format for entities with a financial year matching the calendar year).

Entities which have opted for a financial year different from calendar year and which have not carried out activity since set up date until financial year end do not prepare annual financial statements but their legal representative submits a statement under own responsibility for this purpose as per legal provisions.

ORDER 2157 dated 6 July 2010 regarding submission online of form 318 "Application for VAT refund for taxable persons established in Romania, submitted as per article 1472 point 2 of Fiscal Code" and form 319 "Statement of prorata adjustment as per provisions of article 1472 point 2 of the Fiscal Code and paragraph 491 point 8 of Implementation Norms" (Official Gazette 478/2010)

ORDER 6504 dated 8 July 2010 to approve Norms for access by the economic operators to the Romanian Customs Declarations Processing System - RCDPS (MO 493/2010)

This Order enters in force 1st August 2010, the date when ANAF Vice President Order 1785/2009 to approve Implementation Norms regarding processing customs declarations prepared by electronic process is abrogated (Official Gazette 452/2009).

ORDER 1996 dated 16 July 2010 to amend Norms regarding procedure for approving issue of a certificate to postpone payment of VAT at the Customs check point as well as issue of guarantee for imports of goods, approved by OMFP 500/2007 (Official Gazette 517/2010)

The ceiling for importers who wish to obtain a certificate for postponing payment VAT at the customs check point is reduced from 150 million RON to 100 million RON for the previous 12 months.

LAW 167 dated 14 July 2010 to approve OUG 15/2010 to amend article 13 point 2 of OUG 196/2005 regarding the Environment Fund (Official Gazette 504/2010)

This Law introduces several amendments to legal provisions regarding contributions to the Environment Fund among which we mention:

- Contribution upon sale of lumber increases from 1% to 2% of the derived income;
- Contribution due by economic operators which introduce new and /or second-hand tyres to be sold on the market increases from RON 1 per kg to RON 2 per kg;
- Starting 1st January 2011, a contribution of RON 2 per litre will apply to used mineral oils and will be due by economic operators which introduce this type of product on the market;
- The "Eco-tax" applied for packaging bags which are not biodegradable for buyers is reduced from RON 0.2 to RON 0.1 each. The "Eco-tax" is to be declared and paid **quarterly**.

This Law entered in force 23 July 2010.

INSTRUCTION 22 dated 1st July 2010 regarding the reference interest rate of the National Bank of Romania (NBR) for the month of July 2010 (Official Gazette 447/2010)

For the month of July 2010, the NBR reference interest rate is 6.25% per annum.

EMERGENCY ORDINANCE 59 dated 30 June 2010 to amend Law 571/2003 – Fiscal Code (Official Gazette 442/2010)

This Ordinance introduces the following amendments regarding local taxes:

Increase of tax on means of transport

Taxes on means of transport with a large cylindrical capacity increase significantly.

The tax on a means of transport is calculated in function of its cylindrical capacity by multiplying each bracket of 200 cc³ or fraction of bracket by the amount mentioned as follows:

Means of transport with mechanical traction	RON/200 cc ³ or fraction
Scooter, motorbike and automobile with a cylindrical capacity up to 1,600 cc ³ included	8
Automobile with a cylindrical capacity between 1,601 cc ³ and 2,000 cc ³ included	18
Automobile with a cylindrical capacity between 2,001 cc ³ and 2,600 cc ³ included	72
Automobile with a cylindrical capacity between 2,601 cc ³ and 3,000 cc ³ included	144
Automobiles with a cylindrical capacity over 3,001 cc ³	290
Autobus, autocars, microbus	24
Other vehicles with mechanical traction with a total licensed gross weight up to 12 tons included	30
Registered tractors	18

Increase of the tax due by individuals who own several properties

Individuals who own 2 or several buildings are subject to a tax on the buildings, increased by:

- 65% for the first building except for the tax payer's domicile;
- 150% for the second building except for the tax payer's domicile;
- 300% for the third building and the others except for the tax payer's domicile.

Individuals who own properties further to inheritance do not fall under the incidence of these provisions.

In case of ownership of 2 or several buildings in addition to the taxpayer's domicile, the increased tax is determined on the order in which property was purchased according to documents which prove ownership.

Individuals must submit a special statement with the inspectorate in charge at the local authorities of the domicile as well as the local authorities where the other buildings are located. The model of the special statement will be defined in the Implementation Norms approved by Government Decision.

For 2010, the deadline for payment of the additional taxes which result from the application of the Ordinance provisions is 31 December 2010. Individuals who fully pay the adjusted taxes based on the provisions of this Ordinance prior to 30 September 2010 will benefit from a early payment discount set by decision of the Local Council for 2010.

The provisions of this Ordinance apply starting 1st July 2010.

ORDER 1365 dated 21 June 2010 to complement the Classification of positions in Romania (Official Gazette 447/2010)

The classification of positions in Romania ("C.O.R.") is complemented by new positions disclosed in Appendix to the Order.

ORDER 2007 dated 19 July 2010 to approve Decision 1/2010 issued by Central Fiscal Commission (Official Gazette 512/2010)

For the purpose of unitary application of provisions of article 42 letter b of Law 571/2003 – Fiscal Code, the following has been decided:

To salary rights as well to their actualisation in function of inflation rates, irrespective of how they were granted, either as actualised social rights or compensation representing actualized salary rights, tax on income is calculated and withheld as well as all legal contributions for public social insurance (*pension*), for unemployment insurance and for health social insurance.

LAW 118 dated 30 June 2010 regarding necessary measures to re-establish Budget balance (Office Gazette 441/2010)

The main amendment introduced by the Law is the reduction by 25% of salaries in the public sector. In addition, a series of compensation, allowances and aid suffer a reduction, including **unemployment allowances** and allowances to raise a child up to 2 years of age are **reduced by 15%**.

The 25% reduction also regards the amount of rights representing salaries in foreign currency and other rights in foreign currency and in RON for persons sent on permanent assignment abroad as well as the Romanian staff sent abroad to fulfil assignments with a temporary feature as set by Government Decision 518/1995.

We recommend an assessment of the **amount of the daily allowance (per diem) granted to an employee for a business trip abroad**.

Example: the daily allowance for a business trip to Germany was capped at Euro 35 in the public sector, an employer in the private sector being allowed to grant up to 2.5 times the amount, i.e. Euro 87.50 per calendar day as a tax deductible expense. As per the provisions of Law 118, the ceiling in the public sector becomes by application of the 25% reduction Euro 26.25 per day and subsequently, the ceiling for the private sector becomes Euro 65, 63 Euro per day (2.5 x 26.25 Euro).

This Law entered in force 3rd July 2010.

REMINDER – Luncheon and Holiday vouchers

Luncheon vouchers are not granted when the employee is not at work: during paid or unpaid holidays, absences, technical unemployment, sick leave, legal days off, etc.). In addition, when the employee is on a business trip and receives a daily allowance (to cover his/her food expenses), he/she is not entitled to receive a luncheon voucher.

The maximum amount of holiday vouchers which can be granted within a year represents 6 minimum monthly gross salaries (i.e. 6*RON 600 to date). Holiday vouchers are tax deductible when computing corporate tax or tax on income.

Persons who receive nominative holiday vouchers are the sole beneficiaries for the timeframe mentioned on the holiday voucher and only pay for the contractual tourist package in Romania.

As per Emergency Ordinance 8 dated 18 February 2009 for granting holiday vouchers (Official Gazette 110/2009), the employer can grant holiday vouchers in 2010 **only if the enterprise has posted a fiscal profit during 2009**.

We remind that both luncheon and holiday vouchers have become subject to income tax as per the provisions of Emergency Government Ordinance 58 dated 26 June 2010.

REMINDER – Health contributions for employees seconded in Romania

Starting the date Romania joined the EU, provisions of Regulation CEE 1408/71 to apply social security regimes to employees, independent workers and to their families moving within the community space applied. However, starting 1st May 2010 Regulation CEE 883/2004 to coordinate social security regimes enters in force and Regulation CEE 1408/71 ceases to apply.

In this context, as per article 12 of Regulation CEE 883/2004, an employee who is temporarily sent abroad by his/her employer (seconded), remains affiliated to legislation of the "state of origin" for a determined period of 24 months at a most. Subsequently, the citizens of EU Member States who meet the provisions of article 12 of Regulation CEE 883/2004 **do not have the obligation to pay any contribution to the Romanian health insurance**, being submitted for the whole secondment duration to the legislation of their State of origin.

REMINDER – Obligation to report to the Health Houses sickness leave

On the Bucharest Health House website, the following information is posted regarding information which the employer must report to the Health House in case of sick leave:

"ALL certificates for medical leave brought to the knowledge of the employer having its registered headquarters in Bucharest will be reported irrespective of the county, (*judet*) to where they were issued.

ONLY certificates for sick leave which attest the entry into TEMPORARY WORK INCAPACITY and have the following compensation codes:

- 01 – Usual disease
- 06 – Medical and surgical emergency
- 07 - Quarantine
- 12 - Tuberculosis
- 13 – Heart disease
- 14 - Cancer, AIDS

The certificates which disclose one of the other compensation codes (02, 03, 04, 05, 08, 09, 10, 11, and 15) will not be reported here."

This information refers to employers whose registered headquarters are located in Bucharest. Similarly, employers whose registered headquarters are not located in Bucharest must report information regarding sickness leave to the Health House of the county where registered headquarters are located.

REMINDER – Valuation of monetary items in foreign currency

Do not forget that starting 2010, at the end of each month, monetary items (cash on hand, receivables, payables) denominated in foreign currency are valued at the NBR exchange rate in force on the last banking day of the month.

This procedure also applies to receivables and payables denominated in RON but pegged to a foreign currency for collection/disbursement.

Exchange rates to use for valuation at the end of July 2010:

- 1 Euro = 4.2471 RON; 1 USD = 3.2679 RON;
- 1 CHF = 3.1376 RON; 1 GBP = 5.0961 RON.

H.R. KEY FIGURES

2010 Contribution	Employer (%)	Employee (%)
Social security contribution	20.8% for normal working conditions 25.8% for particular working conditions 30.8% for special working conditions	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 subject to income tax starting July 2010	RON 8.72	
Average monthly gross salary (INSSE May 2009)	RON 1,962	
Per diem (in Romania)		
Employees in the public sector	RON 13.00	
Employees in the private sector (x 2.5)	RON 32.50	

AUGUST 2010 – 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 employee electronic registers with information regarding labour contract 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 7¹ 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 month of August 2010

To comply with 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 on 1st August the EU Operators' Registry becomes operational. To be able to make EU acquisitions as well as supply goods and services, the operator must be registered with the Registry

That Friday 6 August is last day to submit

- Form 092 (amendments) to change VAT return periods from Quarterly to Monthly in case an EU acquisition of **goods** occurred in July 2010. Starting August 2010, VAT returns will be submitted monthly.

That Tuesday 10 August is the last day to submit

- Return for collection of hotel tax

That Tuesday 10 August is the last day to pay

- Hotel tax
- Advertising service tax

That Friday 13 August is the last day to submit "Accounting Report" as at 30 June 2010 for economic operators (not required for non-profit organisations)

That Monday 16 August the last day to submit

- INTRASTAT statement for July 2010 (submitted on-line)
- Recapitulative statement of EU Supplies/acquisitions/services (form 390)* for July 2010;

That Wednesday 25 August is the last day to submit

- State consolidated budget liability return (form 100)*
- Social insurance and special funds liability return (form 102)*
- 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 compen-

sation 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.

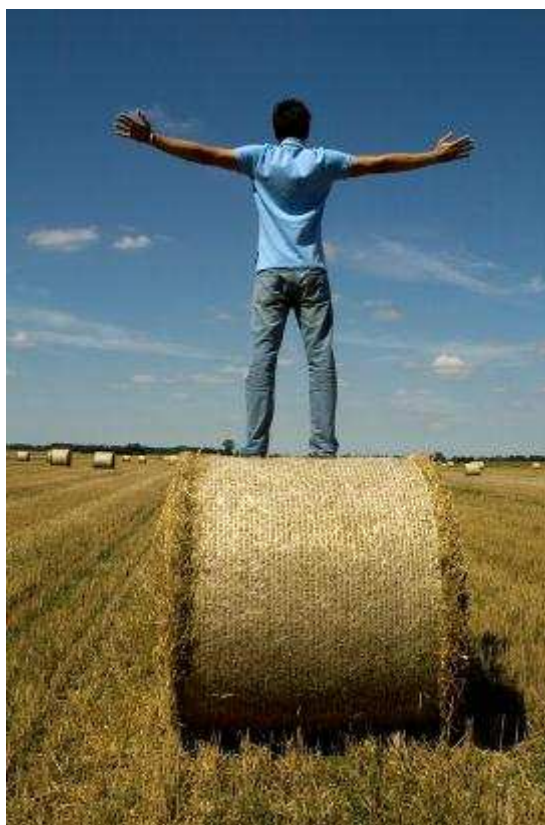
That Wednesday 25 August is the last day to pay

- 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 dividends
- 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 for employers with headcount over 50
- Contribution to the Environment Fund
- Gambling tax.

That Tuesday 31 August is the last day to prepare 2009 consolidated annual financial statements.

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 or from the ANAF website: www.anaf.ro. 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.





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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 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 »**
- Certification of annual profit tax**
- Start up services**
- Organization of the accounting function**
- Assistance in implementation of ERP**
- Training**



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