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## **ORDER 1616 dated 2 June 2011 to amend and complement labour contract template set in Appendix to Ministry of Labour and Social Solidarity Order 64/2003 (Official Gazette 415/2011)**

The Order amends and complements the labour contract template as follows:

- chapter D – Place of work – the place where activity is carried out must be filled in, in terms of section, workshop, office, service, department and whether it is at registered headquarters, a secondary establishment or another place;
- chapter F – Job duties – **assessment criteria for employee's professional activity must also be disclosed;**
- chapter H – Duration of work – for part-time labour contract, the notation of a minimum number of 2 hours per day has been removed;
- chapter J – Salary – 2 new captions refer to additional service in cash and the modalities of payment of additional services in kind;
- chapter L – Other provisions – trial period is in calendar days irrespective of the employee's position (regular or management) and notice period in case of resignation is 20 days for regular positions and 45 days for management positions;
- chapter M – General rights and obligations of the Parties – an additional caption is introduced in point 3 – Employer rights (letter d): **the employer has the right to set individual performance objectives for the employee;**
- chapter M – General rights and obligations of the Parties – point 4 – Employer obligations are amended and complemented as follows:
  - o point a) the employer must remit labour contract to the employee before inception of activity;
  - o point a1) the employer must grant to the employee all rights which derive from his/her labour contract, the applicable collective labour contract and from law;
  - o point d) the employer must provide upon request a document which certifies his/her quality of employee, the activity carried out, employment period, salary, seniority at work, in craft and speciality.

## **ORDER 2224 dated 14 June 2011 issued by ANAF President to approve territorial administration capacity (Official Gazette 450/2011)**

The Order sets a new organisation framework and repartition scheme for ANAF within Romania. It enters into force 1<sup>st</sup> July 2011.

The main amendments introduced by the Order are the following:

- territorial units located in rural areas or small localities are closed and taxpayers which were under their administration are taken over by territorial units located in larger localities;
- the territorial unit which takes over administration of the taxpayer file is subrogated to the one which is closed in all existing litigation, challenge procedures as well as in procedures to collect fiscal liabilities. Subsequently, all files in progress as at 30 June 2011 are transferred on 1<sup>st</sup> July to the appointed territorial unit;
- all procedures regarding transfer of fiscal file are internal to ANAF without requiring taxpayer input;
- reorganisation does not affect administration of large or middle sized taxpayers which continue being administrated by the same modalities.

**To implement these reorganisation operations, ANAF offices will be closed to the public from 30 June until 5 July 2011. In addition, it will not be possible to submit returns on-line during this period.**

### ORDER 2014 dated 19 May 2011 to amend Ministry of Finance Order 752/2006 to approve issuance procedures for fiscal certificates for legal entities and individuals, State budget liability certificates as well as their model and content (Official Gazette 396/2011)

The Order introduces amendments to issuance procedures for fiscal certificates. We mention the main changes below.

Tax authorities must issue *ex officio* a fiscal certificate in case of change in tax authority in charge of administration of the taxpayer file further to change of fiscal domicile or other circumstances as per law.

Prior to issuance of a tax certificate, tax authorities verify:

- the taxpayer fiscal file;
- the evidence kept by tax authorities regarding taxpayer liabilities and settlements;
- the existence of amounts to refund for which decision for refund has not been issued as at application date for a fiscal certificate;
- the existence of decision for refund or, if applicable, approved documentation to finalise application for refund for which notes for contra/refund have not been issued and recorded in tax authority documentation.

If tax authorities discover that tax returns have not been submitted by the taxpayer, a notification is sent to the taxpayer regarding missed deadlines for submission of tax returns. In this case, the deadline for issuance of the fiscal certificate is extended to the time lapse between notification date of communication and tax return submission date or of communication date of the *ex officio* taxation decision.

In case tax authorities find out that, prior to application for a fiscal certificate, the **taxpayer was notified regarding non-compliance with deadline for submission of tax returns**, tax authorities issue and transmit a **decision for *ex officio* taxation** up to the date of issue of the fiscal certificate, if 15 days starting the date of notification to the taxpayer have expired. If the 15 day period expires after submission date for fiscal certificate application, the deadline for issue of the fiscal certificate is extended to the period between application submission date and tax return submission date or communication date of decision regarding *ex officio* taxation, as the case may be.

Tax authorities issue and record in its evidence as per legal procedures notes for netting in all cases where approved decisions for refund or approved documentation to finalise applications for refund exist, and comply with the timeframe set by law to issue fiscal certificates.

Fiscal certificates have 4 captions, namely:

- caption A "Fiscal liabilities;"
- caption B "Amounts to refund/restitution;"
- caption C "Information to verify taxpayer eligibility to access non refundable funds;"
- caption D "Other mentions."

On the fiscal certificate, it is mandatory to disclose its registration number, issue date, period for use and the person in charge of the issuing tax authority.

The Order approves model and content of the following forms:

- "Fiscal certificate," code M.F.P. - A.N.A.F. 14.13.21.99;
- "Application for issue of fiscal certificate," code M.F.P. - A.N.A.F. 14.13.25.99.

For large and middle size taxpayers which apply for a fiscal certificate by remote means of transmission, tax authorities in charge issue the fiscal certificate and send it to the taxpayer by the same means. Under these circumstances, the taxpayer prints it in paper format and presents it to the local tax authorities (where fiscal domicile is located) in order to have it certified as conforming to the original. Certification is made by signature of head of local authority and stamp.

Fiscal certificates may be used by legal entities 30 days after issue date and 90 days by individuals.

### EMERGENCY ORDINANCE 49 dated 31 May 2011 to amend and complement Law 571/2003 – Fiscal Code and other financial and fiscal provisions (Official Gazette 381/2011)

The Ordinance complements article 160 of the Fiscal Code which refers to simplification measures in the field of VAT. Subsequently, operations of supply of cereal and "technical plants" are introduced in the scope of simplification measures if they regard produce mentioned below in the list set by EU regulation no. 2658/87 issued by Council on 23 July 1987 regarding tariff and statistical list, as well as common customs tariffs:

Code	Produce
1001 10 00	Hard wheat
1001 90 10	Spelt ( <i>Triticum spelta</i> ) for planting
ex 1001 90 91	Common wheat for planting
ex 1001 90 99	Other spelt ( <i>Triticum spelta</i> ) and common wheat, not intended for planting
1002 00 00	Rye
1003 00	Barley
1005	Corn
1201 00	Soy beans, even crushed



Fiscal certificate is issued *ex officio* in case of change in registered headquarters



1205	Rape or wild rape, even crushed
1206 00	Sunflower seeds, even crushed
1212 91	Sugar beet

Simplification measures regarding cereals apply until 31 May 2013.

### INFORMATION – APPLICATION OF SIMPLIFICATION MEASURES FOR DOMESTIC OPERATIONS (article 160 of Fiscal Code)

Application of simplification measures is made for transactions which are only made between persons registered in the scope of VAT as per article 153 of the Fiscal Code where place of supply or provision of service is in Romania as per articles 132 and 133, and represent taxable operations as per Fiscal Code. Output VAT is not mentioned on the invoice issued by the supplier/service provider.

VAT is calculated by the beneficiary which writes the amount of VAT on the invoice, records it in the purchase journal as well as declares it on its VAT return as both output VAT and input VAT.

From an accounting point of view, the beneficiary will record the book entry for the VAT amount - Debit 4426/Credit 4427 - during the applicable tax period.

Declaration of VAT by the purchaser on its VAT return as both output and input VAT is known as automatic VAT liquidation. To declare output VAT in amount of input VAT is assimilated to a payment of VAT to the supplier/service provider.

Both supplier/service provider and beneficiary are subject to application of provisions of article 160 regarding simplification measures.

Taxable persons under a dual regime (*pro rata* VAT) which are the beneficiary of purchases subject to reverse tax as per article 160 of the Fiscal Code will deduct VAT up to the limits and in conditions set per articles 145, 145<sup>1</sup>, 146, 147 and 147<sup>1</sup> of the Fiscal Code on their VAT returns.

In case of non-compliance with application of reverse tax, tax inspection authorities will impose measures to require the supplier/service provider to correct the transactions and to apply reverse tax. It will be made by correction of documents, by denying to the purchaser the right of VAT deduction and by obliging the seller to refund VAT to, and previously paid by, the purchaser. Implicitly, interest and penalties for late payment calculated upon the amount of VAT which has been inaccurately deducted by the purchaser if it was in a position to pay VAT may result.

Operations for which application of simplification measures (reverse taxation) is mandatory are as follows:

- supply of waste and secondary raw materials resulting for recycling as defined in OUG 16/2001 regarding management of recyclable industrial waste;
- supply of wood and wood materials as defined in Law 46/2008 – Forest Code;
- supply of cereal and "technical plants" mentioned above which are on the list set by EU Regulation 2658/87 issued by the Council on 23 July 1987 regarding the tariff and statistical list as well as common customs tariffs;
- transfer of greenhouse gas emission certificates as defined at article 3 of EU Directive 2003/87/CE issued by the European Parliament and Council on 13 October 2003.

We emphasize that application of simplification measures is not optional, but mandatory.

### ORDER 2137 dated 25 May 2011 to approve Implementation Instructions of Title IX of Government Ordinance 92/2003 - Code of Fiscal Procedure (Official Gazette 380/2011)

The Order approves a series of implementation instructions of articles of the Code of Fiscal Procedure (article 205 to 218) which refer to challenging fiscal administrative acts, time frame, procedural aspects regarding argument and form, as well as processing challenges.

Mentioned below are some extracts from the instructions.

The taxation bases can be challenged only by a challenge against the decision regarding the taxation base and not taxation decisions issued afterwards which are based on the former.

A challenge is deemed to apply to the entire fiscal administrative act if the amounts which are challenged are not mentioned by challenged type of tax or measures.

In case a challenge does not meet requirements regarding submission accompanied by original or legalised copy of the power of attorney, signature, taxpayer stamp, the tax authority in charge of examining challenge will ask the taxpayer by registered letter with confirmed receipt to comply with these requirements within 5 days starting registered mail date. If not, the challenge will be rejected without examining the taxpayer's argument.

#### Deadline for submitting challenges:

- Deadline for submission is calculated using calendar days, except when case law sets otherwise. Upon calculation, the first and last day are not taken into account.  
Example: the fiscal administrative act is communicated to the taxpayer on 29 June, allotted time of 30 days starts 30 June and ends 29 July, deadline for submission of challenge therefore being 30 July.
- Allotted time which ends on a legal holiday or when activity is suspended (for instance, week-end) is extended until end of next business day.




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**Application of so-called simplification measures regarding VAT is mandatory**

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Be aware that challenging tax authority decisions can be rejected for mere procedural issues

- ☑ Time allowed of 3 months set at article 207 point (4) of the Code of Fiscal Procedure ends the corresponding day as the starting month.  
Example: the fiscal administrative act is communicated to the taxpayer on 15 January, time allowed of 3 months ends on 15 April, deadline for submission of challenge therefore being 15 April.
- ☑ Time allowed which started on the 29<sup>th</sup>, 30<sup>th</sup> or 31<sup>st</sup> of the month, yet ends in a month when such a day does not exist, is deemed to end on the last day of the respective month.  
Example: the fiscal administrative act is communicated to the taxpayer on 30 November, time allowed of 3 months ends on the last day of February, i.e. 28 or 29 February which is last day for submission of challenge.

Decision issued by ANAF further to examination of challenge is final in respect of administrative means of action against it, meaning that tax authorities in charge reverse it, except for cases when material errors as per law are to be corrected. Decision prevails for tax authorities which had issued the challenged fiscal administrative acts.

#### Suspension of examination procedures for challenge:

Tax authorities in charge of examination of challenges can suspend its examination upon taxpayer request if grounded reasons are presented, except when the reason for suspension is the action introduced with competent judicial authorities by which suspension in the execution of the challenged fiscal administrative act is requested. Postponement of the examination date of challenges can only be requested once. Upon approval of the suspension, tax authorities in charge will also schedule the date when the procedure is suspended. The administrative procedure resumes when the reason which triggered suspension ceases or, if applicable, at expiration of time allotted by tax authorities irrespective of reasons which determined suspension ceased or not.

#### From a procedural point of view, challenges cannot be rejected if:

- ☑ not submitted in due time;
- ☑ submitted by a person who does not hold the quality to challenge in case challenging has been formulated by a legal entity or individual who is not entitled to do so;
- ☑ submitted by a person who has no practicing capacity, as per law;
- ☑ deprived from interest in case the taxpayer who challenges does not demonstrate its rights or legitimate interests have been encroached upon;
- ☑ prematurely formulated in case the challenged amounts are not disclosed separately in a liability certificate and in case the decision regarding taxation base has not been issued.

#### LAW 126 dated 20 June 2011 to approve OUG 88/2010 to amend and complement OG 92/2003 – Code of Fiscal Procedure (Official Gazette 433/2011)

The Law approves provisions of Government Emergency Ordinance 88/2010 amending the Code of Fiscal Procedure and introduces some new provisions among them the following:

- ☑ Article 47 which refers to "Cancellation or amendment of fiscal administrative acts" is complemented. In addition to the introduction of a time period for cancellation of a fiscal administrative act, it is specified that fiscal administrative acts by which additional fiscal liabilities were inaccurately set in addition to the main fiscal liability (whatever the modality) are fully or partially cancelled, irrespective of whether they have been challenged or not.
- ☑ Provisions regarding submission of tax returns are complemented. Thus, date of on-line submission of returns on the e-Romania portal is the validation date of the submission, resulting from the electronic message regarding confirmation of validation of the return which is transmitted by the data validation and processing application. These provisions also apply to returns regarding social contributions, income tax and nominative list of insured persons (form 112) which are submitted in paper format, duly signed and stamped with tax authorities or an office accredited by Ministry of Public Finance.

We remind that with regard to fiscal liabilities, it is possible to adjust, upon taxpayer request, errors made on payment documents, payment being deemed valid at the date paid, for its amount and from the taxpayer bank account disclosed on the payment document, under the condition that the taxpayer bank account was debited and a tax authority bank account credited. Application for correction of error can be submitted up to 1 year starting payment date to avoid exceeding deadline for submission of an application for correction of errors. Law 126/2011 extends time allotted to 5 years starting 1<sup>st</sup> January of the year subsequent to payment date.

#### EUROPEAN COUNCIL REGULATION 282/2011 dated 15 March 2011 regarding application of measures taken for implementing Directive 2006/112/CE regarding common VAT regime (EU Official Gazette dated 23 March 2011)

This month, we return to EU regulation 282/2011 in the field of VAT which enters into force 1<sup>st</sup> July 2011, except for some provisions explicitly stated in the Regulation which will enter into force at a later date and which **directly applies to all member States** and therefore is of direct application to the Romanian legislation.





After presenting a summary in APEX Team Newsletter no. 5\_2011, we mention below some of the new provisions introduced by this Regulation:

- ☑ In case a non-taxable person purchased a new means of transport in another member State and has benefited from VAT exemption granted to EU supply in the taxpayer's member State, yet decides at a later date to reintroduce the same means of transport into the member State where purchased, it will not be considered an EU acquisition in the member State where delivery occurs;
- ☑ It is clearly stated that for a taxable person which is not normally registered in the scope of VAT, registration in the scope of VAT for declaration of EU services does not mean that this person is also automatically registered for EU acquisition of goods and services. The taxable entity can decide whether or not to communicate its VAT code when its EU acquisitions of goods and services reach the ceiling for registration in the scope of VAT for EU acquisitions. However, if the taxable person chooses to communicate its VAT code when it makes an EU acquisition of goods and services even though it has not reached the ceiling, it is considered that the taxable person has opted to register for all EU acquisitions of goods and must immediately start using its VAT code for all EU acquisitions of goods and services;
- ☑ Restaurant and catering services are clarified as being services of supply of alimentary produce and/or beverages together with related services which enable their immediate consumption. The difference between restaurant services and catering services is that restaurant services are provided at the service provider's premises while catering services are rendered at the beneficiary's premises. The sole supply of alimentary produce and/or beverages without related services which enable their immediate consumption cannot be included in the definition of restaurant/catering services;
- ☑ Services rendered by electronic means are defined as follows: services rendered by Internet or by an electronic network the nature of which nature determines automatic provision, implying minimum human intervention, and where provision would be impossible without IT. A list of these services is presented in Appendix 1 of the Regulation together with a list of services which do not meet this definition;
- ☑ The criterion which prevails in the determination of the place of establishment of a taxable entity is set to be the place where main company management decisions are made;
- ☑ It is clearly specified that the fiscal treatment of an EU acquisition of goods in the member State where the transport of goods ended is independent from the fiscal treatment of the EU supply of goods in the member State where the transport of goods started;
- ☑ Services rendered by intermediaries acting in the name and on behalf of other persons which consist of intermediary provision of accommodation services in the hotel industry or other fields with a similar function which are rendered to a taxable person are treated as per the general rule of place for "B2B" provision of services;
- ☑ Translation services of texts rendered to a non-taxable person established outside the Community are assimilated upon determination of the location of provision of services to services rendered by consultants, engineers and engineering entities and subsequently the location of the provision of services is where the client is established, therefore outside the Community;
- ☑ A service provider can also consider its client is established in the Community as a taxable person (for the purpose of application of rules regarding the location of provision of services) when:
  - the client has not yet been provided with a VAT code but it informs the service provider that it submitted an application for one,
  - the service provider obtains any other proof which demonstrates the feature of taxable person or non-taxable legal entity which must be registered in the scope of VAT,
  - the service provider performs a control at a reasonable level of investigation regarding accuracy of information provided by the client as per standard client acceptance procedures regarding identity or good credit history.
- ☑ If a service rendered to a taxable person is aimed both for private use and economic activities of the client, it is considered that this service must be treated in accordance of the general rule for "B2B" provision of services, unless this does not represent abusive practice.

We mention that the last 2 provisions do not totally or partially comply with present legal provisions and that amendments will have to be introduced to internal legislation in the scope of compliance with EU provisions.

European Regulations may be consulted on the Ministry of Finance website at [http://discutii.mfinante.ro/static/10/Mfp/infotva/Regulamentul\\_282\\_2011.pdf](http://discutii.mfinante.ro/static/10/Mfp/infotva/Regulamentul_282_2011.pdf) or in English at <http://eur-lex.europa.eu>

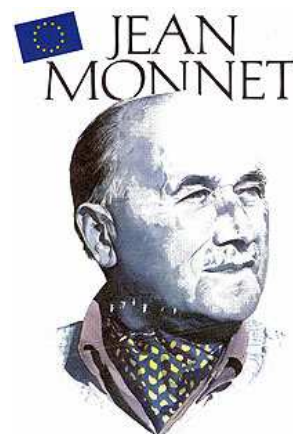
**ORDER 2200 dated 10 June 2011 to amend Instructions for on-line submission of returns regarding statements of acquisitions and supply of excisable products using EMCS-RO STOCURI application, approved by ANAF Presidential Order 26/2011 (Official Gazette 439/2011)**




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**Common EU VAT  
regime directly  
applies to domestic  
legislative framework**

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Père de l'Europe

### INSTRUCTION 18 dated 1<sup>st</sup> June 2011 regarding the reference interest rate of the National Bank of Romania (NBR) for the month of June 2011 (Official Gazette 383/2011)

For the month of June 2011, the NBR reference interest rate is 6.25% per annum.

### ORDER 2151 dated 30 May 2011 regarding disclosure on documents of the registration number as operator of data with personal feature (Official Gazette 390/2011)

Registration number "759" allotted to ANAF in its quality of operator of data with a personal feature must be disclosed on documents by which data with a personal feature are collected from taxpayers who are individuals.

Registration number as operator of data with personal feature allotted to Bucharest and "Judet" Ministry of Public Finance General inspectorates as per article 24 of Law 677/2001, with its further amendments and complements, is disclosed on procedural documents, administrative acts as well as on the other documents containing data with personal features of individuals which are issued by these inspectorates or fiscal units under their subordination in the process of administration of taxes, contributions and other amounts due to the State Budget.

### LAW 80 dated 6 June 2011 to amend and complement OUG 102/2005 regarding free circulation of European Union and European Economic Area citizens in Romania (Official Gazette 443/2011)

We mention below the main amendments introduced by this Law:

- The Swiss Confederation is added to EU and EEA member States as per article 1 of the text of law.
- EU citizens who enter in Romania have the right to stay in Romania for a period up to 3 months without having to meet any other conditions. By exception, EU citizens who enter in Romania and are looking for a job have the right to stay in Romania for a period of up to 6 months starting date of entry without having to meet any additional conditions.
- In the scope of being kept in evidence and **for issue of a registration certificate (residence document)**, the EU citizen must submit with the territorial unit of Romanian Office for Immigration of his/her domicile in Romania (see <http://ori.mira.gov.ro/>), **within 3 months starting date of entry in Romania**, an application accompanied by his/her national identity card or passport (within validity period) as well as the following documents:
  - o Registry office document which certifies marriage or, if applicable, documents which certify as per law the family relationship with the resident or Romanian citizen;
  - o Identity card (within validity period) of the Romanian citizen with whom the applicant has family relationship.
- To obtain issuance of his/her registration certificate, the EU citizen who accompanies an EU or Romanian citizen in his/her quality of family member must prove that he/she is a insured person regarding health;
- Entry visas for family members who are not EU citizens are issued within 48 hours and free of consulate charge. By exception, the family member who is not an EU citizen does not have to obtain an entry visa if all the following conditions are met:
  - o accompanies an EU citizen or joins an EU citizen who benefits from the right to reside in Romania;
  - o holds a valid document which certifies his/her residence in another member State in his/her quality of family member of the EU citizen he/she is accompanying or joining in Romania.
- The registration certificate has a validity period of 5 years starting date of issue.** Upon request of the EU citizen, the certificate can be issued for less than 5 years but no less than 1 year.
- Other provisions regard permanent residence, the person's death and continuation of residence for his/her family members, renewing the registration certificate, time allotted for procedures, withdrawal of the registration certificate and restrictions to the right of free circulation.
- The general principal where "EU citizens and their family members who have the right to reside in Romania benefit from equal treatment with Romanian citizens in the domain of application of EU treaties as per provisions of these treaties and adopted implementation regulations" is stated.

### ORDER 1441 dated 23 May 2011 to establish regulations for set up and managing financial guarantees for electronic and electronic equipment manufacturers (Official Gazette 379/2011)

As per provisions of OUG 196/2005 regarding the Environment Fund, economic operators which introduce electric and electronic equipment to the market must ensure recycling, collection and treatment of waste from electric and electronic equipment.

This obligation can be met in-house or subcontracted to a specialised entity.

The main issues ruled by the present Order are mentioned below:

- Determining modality of guarantees depending on nature of the equipment (household device, large or small size, IT and telecommunication equipment, toys, sports equipment, etc.);
- Working procedure with National Agency for Environment Protection (ANPM);



**Application for residence permit required for any EU citizen contemplating a stay in Romania for more than 90 days**



- ☑ Utilisation of financial guarantees;
- ☑ ANPM obligations;
- ☑ The procedure for 2011 is detailed as well as deadline for submission of final 2010 statement.

Declarative obligations are the following:

- ☑ Within 60 days, economic operators which internally meet their obligations regarding environment will transmit to ANPM the guarantees set as per the present provisions.
- ☑ Within 35 days, entities in charge of subcontracted obligations will communicate the amount of costs pertaining to 2010 which represents the base for calculation of the 2011 guarantee.
- ☑ Annually, at the latest 20 March of the subsequent year, both economic operators which internally meet their obligations regarding environment and entities in charge of collective responsibility will communicate to ANPM the costs which represent the base for the computation of the guarantee in order to update it.

### **ORDER 2117 dated 23 May 2011 to amend ANAF Presidential Order 1415/2009 to approve model and content of documents and forms used in the activity of tax inspection of individuals (Official Gazette 418/2011)**

The Order introduces/updates document/form templates used during tax inspections of individuals:

- ☑ "Tax decision regarding income tax determined further to tax inspection of individuals obtaining taxable income from economic activities which was not declared to tax authorities;"
- ☑ Instructions to prepare the form, "Taxation decision regarding income tax determined further to tax inspection of individual who obtained taxable income from economic activities which was not declared to tax authorities;"
- ☑ "Tax decision to process application for VAT refunds submitted by individuals; "
- ☑ Instructions to prepare the form, "Tax decision to process application for VAT refunds submitted by individuals;"
- ☑ "Tax decision regarding VAT and other fiscal liabilities established further to tax inspection of individuals obtaining taxable income from economic activities which was not declared to tax authorities;"
- ☑ Instructions to prepare the form, "Tax decision regarding VAT and other fiscal liabilities established further to tax inspection of individuals obtaining taxable income from economic activities which was not declared to tax authorities;"
- ☑ List of additional income tax on salaries, divided between registered headquarters and secondary establishment.

### **ORDER 3 dated 3 June 2011 to approve methodological Norms for preparation of FINREP stand-alone financial statements in conformity to IFRS applicable to credit institutions in the scope of prudence (Official Gazette 418/2011)**

### **ORDER 2215 dated 27 June 2011 for unitary application of provisions of article 296<sup>19</sup> of Law 571/2003 – Fiscal Code, with its further amendments and complements (Official Gazette 455/2011)**

As per this order, the return regarding social contributions, income tax and nominative list of insured persons (form 112) pertaining to the month of June 2011 can be submitted in paper format, duly signed and stamped, with tax authorities or an office accredited by the Ministry of Public Finance on or before 25 July 2011.

We remind that **starting with form 112 pertaining to the month of July 2011** with deadline for submission of 25 August 2011, this return can **only** be **submitted on-line** and, for this purpose, a digital certificate must be held and form 150 submitted with ANAF.

### **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 June 2011:

- 1 Euro = 4.2341 RON;
- 1 USD = 2.9259 RON;
- 1 CHF = 3.5066 RON;
- 1 GBP = 4.6760 RON.




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**Submission of form 112 in paper format still possible for June 2011**

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## JULY 2011 – AGENDA

### Every day - do not forget

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

### At month end - do not forget

- To complete the journal ledger
- To complete the fiscal evidence register
- To register contracts concluded during the month for services rendered by non-residents, with tax authorities as per article 8 point 7<sup>1</sup> 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 July 2011

### 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 Thursday 7 July is the 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 June 2011. Starting July 2011, VAT returns will be submitted monthly.

#### That Monday 11 July is the last day to submit

- Return on collection of hotel tax

#### That Monday 11 July is the last day to pay

- Hotel tax
- Advertising service tax

#### That Friday 15 July is the last day to submit

- INTRASTAT statement for June 2011 (standard or extended submitted on-line)
- Recapitulative statement of EU Supplies/acquisitions/services (form 390)\* for June 2011;
- Return regarding the state of acquisitions and deliveries of excisable products for the month of June 2011.

#### That Wednesday 20 July is the last day to submit

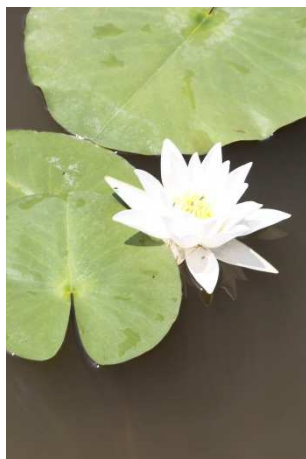
- Special VAT return (form 301)\* for Quarter II 2011 for non established taxable persons who rendered electronic services to non-taxable persons

#### That Monday 25 July is the last day to submit

- State budget liability return (form 100)\*;
- Return regarding social contributions, income tax and nominative list of insured persons (form 112 submitted on-line\* or in paper format);
- VAT return (form 300)\*;
- Special VAT return for VAT non payers (form 301)\*;
- Informative statement of domestic supply/service and acquisitions made during the first half of 2011 (form 394);**
- 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);
- Environment Fund Statement (including "ecotax");
- Statement for Quarter II 2011 for the determination of tax which represents an anticipated payment on tax on net taxable gain obtained from disposal of securities other than shares and securities of



**Pay attention to  
deadlines for tax  
return submissions!**





closed companies (form 225);

- Informative statement regarding income derived from disposal of personal real estate property (form 208) during first half of 2011;
- Statement regarding allocation of Quarter II 2011 income and expenses between associates (form 104 to be submitted by associations which are not legal entities ruled by article 13 letters c) and e) of the Fiscal Code).

#### That Monday 25 July is the last day to pay

- Excise taxes
- VAT
- Liabilities to the sole account – **State Budget**
  - o Tax on profit for Quarter II 2011
  - o Tax on revenues of the micro enterprise for Quarter II 2011
  - o Tax on crude oil and natural gas from domestic production
  - o Withholding tax on non-resident income
  - o Income tax on salary
  - o Tax on income from independent activities, withheld at source
  - o Tax on interest income
  - o Tax on investment income
  - o Tax on pension income
  - o Tax on income from prizes and gambling
  - o Tax on income from other sources
  - o Contribution for non employment of disabled persons for employers with headcount over 50
- Liabilities to the sole account – **Public Insurance Budget and special funds**
  - o Social security contribution (*pension*)
  - o Health insurance contribution
  - o Medical leave contribution and health insurance allowance
  - o Unemployment contribution
  - o Contribution to fund to guarantee payment of salary liabilities
  - o Contribution to work accident and occupational disease fund
- Contribution to Environment Fund ("ecotax" included).

#### And in perspective.....

- "Accounting report" submission as at 30 June 2011 (balance sheet, income statement and informative data) due on or before 12 August 2011, only by companies required to do so!

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](http://www.mfinante.ro).

Tax returns noted with an asterisk (\*) can be submitted by remote means of electronic transmission by large and medium size taxpayers as well as by taxpayers which have opted to file their returns on-line and which hold a digital certificate.




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**Be aware of deadlines  
for fiscal liability  
payments!**

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## KEY HR FIGURES

2011 Contributions	Employer and Beneficiary of activities considered dependent activities (% rate)	Employee and provider of dependent activities (% rate)
Social security contribution ( <i>pension</i> )	20.8% for normal working conditions 25.8% for particular working conditions 30.8% for special working conditions (contribution base capped at an amount representing the average amount of insured persons during the month for which the contribution is determined as 5 times the average monthly gross salary) <sup>1</sup>	10.5% (contribution base per employee capped at 5 average monthly gross salaries according to Budget for public social insurance, i.e. 5 x 2,022 = RON10,110) <sup>1</sup> (contribution base for a person under civil contract: gross income)
Health insurance fund (based on gross salary)	5.2%	5.5%
Medical leave contribution and health insurance allowance (based on gross salary)	0.85%	
Unemployment fund (based on gross salary)	0.5%	0.5%
Work accident and occupational disease fund (based on gross salary) <sup>2</sup>	0.15% - 0.85% depending on CAEN code for main activity	
Contribution to fund to guarantee payment of salary liabilities (based on gross salary)	0.25% (only for employees under labour contract included for retired persons)	
Salary tax		16%
Contribution for non employment of disabled persons (for employers with more than 50 employees)	4 x 50% minimum gross salary (RON 670) for every 100 employees	
Minimum monthly gross salary as per Government Decision 1193/2010	RON 670	
Luncheon voucher starting from March 2011 subject to income	RON 9	
Per diem (in Romania) Employees in the public sector Employees in the private sector (x 2.5)	RON 13.00 RON 32.50	

Note 1: Contribution to pension is also due during periods when the insured person benefits from medical leave and health insurance allowance. For these periods, the contribution base is 35% of the average monthly gross salary corresponding to the number of business days of medical leave.

Note 2: Contribution for work accident and occupational disease is also due during periods when the insured person benefits from medical leave and health insurance allowance. For these periods, the contribution base is the minimum gross salary where payment is guaranteed on a national basis corresponding to the number of business days of medical leave.

Note 3: Income paid to a person who carried out an activity considered dependent activity (example: in-house "captive" PFA or who meets at least 1 out of the 4 re-qualification criteria mentioned in OUG 82/2010) is disclosed on a separate "Payment statement" and is included on form 112.

Contributions	Income payer / Beneficiary of professional activities (of author or person under civil contract) (% rate)	Provider of professional activities (author or person under civil contract) (% rate)
Contribution to social insurance ( <i>if applicable</i> ) (based on gross income reduced by the standard deduction as deemed expenses for intellectual property rights and based on gross income for persons under civil contract and in both cases capped at 5 average monthly gross salaries, i.e. 5 X 2,022 RON)	0%	10.5% <sup>1</sup>
Contribution to health insurance	0%	0% <sup>2</sup>
Contribution to unemployment insurance ( <i>if applicable</i> )	0%	0.5% <sup>3</sup>
Income tax		16% <sup>4</sup>

1 The income payer calculates, withholds, pays and declares the individual contribution for pension (CAS) if the author or person under civil contract does not prove he/she is retired or insured in another pension regime within Pillar 1.

2 The author or the person under civil contract remains responsible for submitting his/her return for health insurance as well as for payment of the health contribution as per Law 95/2006.

3 The income payer withholds, pays and declares the individual contribution for unemployment if the author or the person under civil contract does not prove he/she is insured by option with the unemployment insurance regime.

4 Regarding income tax, it remains possible for the author to have 10% of his/her income tax withheld when author's rights are paid, and to annually declare author's rights income obtained to tax authorities and to adjust the 10% income tax rate to 16%, paying the balance due.

Regarding a Director appointed in the Constitutive Deed (and not through an administration or management contract) and to whom a General Shareholder meeting resolution grants remuneration, he/she must insure himself/herself in the public pension regime via an insurance declaration unless he/she is not already an insured person. The base for his/her contribution is at his/her decision but cannot be less than 35% of average monthly gross salary as per Budget for public social insurance (i.e. RON 2,022 x 35%) but no more than 5 average monthly gross salaries. The rate of contribution is 31.3%. The insured person can be a Romanian citizen, a citizen of another State or stateless for the period he/she has, as per law, his/her domicile or residence in Romania.

As for the legal entity which grants such remuneration, it must make a contribution to health insurance at a tax rate of 5.2% and also for medical leave allowances of 0.85%. The legal entity will also declare and pay the health contribution (5.5%) and income tax which it will have to withhold from the Director's remuneration.

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