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Contents:

- Accounting Report as at 30 June 2011 due by 16 August
- Simplified accountancy regime for SMEs with turnover and total assets of up to Euro 35,000
- Mihail Kogălniceanu Programme for providing SMEs access to financing
- Income tax withheld from employees based at headquarters vs. secondary establishments paid separately
- EU ecology label
- 2010 consolidated financial statements
- Transfer price file
- July 2011 NBR Interest rate
- Summer jobs and Internships
- Unemployment allowances for new graduates
- Reduction of employer unemployment contributions when hiring unemployed persons for at least 6 months
- Computation of compensation for days off
- Luncheon and Holiday vouchers
- Valuation of monetary items in foreign currency
- AUGUST 2011 Agenda
- Key HR indicators

ORDER 2234 dated 29 June 2011 to approve reporting procedures regarding Accounting Report of economic operators as at 30 June 2011 (Official Gazette 483/2011)

The Order approves reporting procedures regarding Accounting Report as at 30 June 2011 of entities which apply Accounting Regulations in conformity with EU Directive IV enacted by Ministry of Public Finance (MFP) Order 3055/2009 and where net turnover for the prior financial year was greater than the RON equivalent of Euro 35,000. RON equivalent of **Euro 35,000** is determined by using the exchange rate in force of the end of the previous year as communicated by National Bank of Romania (NBR).

For the purpose of collecting information for national statistics, provisions of the present Order also apply to sub units registered in Romania which belong to legal entities whose registered headquarters are abroad, whatever the chosen financial year.

We remind amendments to Accountancy Law 82/1991 introduced by Government Ordinance 37/2011 (see Newsletter APEX Team no. 4_2011). Sub units (branches) opened in Romania by companies which are resident in a European Economic Area (EEA) State are no longer required to prepare and file annual financial statements for their own operations. The present Order, however, maintains the obligation of a Romanian branch belonging to an entity resident in an EEA State to prepare an Accounting Report as at 30 June 2011.

Economic operators which have not carried out any activity from set-up date through 30 June 2011 should not prepare an Accounting Report as at 30 June 2011. The same applies to those entities in temporary inactivity through the first half of 2011 as well as legal entities under liquidation as per law.

Entities which opted for a financial year different from calendar year as per Accountancy Law 82/1991 assess if criterion set above is met using the indicators disclosed in the last annual financial statements, meaning the trial balance closed at the end of the prior financial year and the exchange rate in force at that year-end date as communicated by NBR.

Entities listed below must submit their Accounting Report as at 30 June 2011 with local units of the Ministry of Public Finance in the format established by, and the deadline set by the responsible regulatory institution:

- credit institutions and non banking financial institutions as defined by regulations in force and registered in the General Registry,
 - payment institutions and institutions issuing electronic currency as defined by law which grant loans related to payment services where activity is limited to provision of payment services;
 - fund for guarantee of deposits in the banking sector;
 - entities licensed, regulated and monitored by the Insurance Monitoring Commission (CSA);
 - entities licensed, regulated and monitored by the Private Pension Fund Monitoring Commission (CSSPP);
 - entities licensed, regulated and monitored by the National Securities Commission (CNVM).
- Non profit entities (associations, foundations) do not prepare an Accounting Report as at 30 June 2011.

The Accounting Report includes:

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

Forms included in the Accounting Report as at 30 June 2011 are completed in RON.

We mention that a summarized trial balance and a copy of the Trade Register Certificate must be attached.

Format

The electronic format of the Accounting Report as at 30 June 2011 as well as forms and guidance on their preparation and control can be downloaded from the MFP website: www.mfinante.ro

Signature of the Accounting Report

Accounting Report as at 30 June 2011 is signed by persons entitled to do so, their full name being disclosed. The caption regarding the quality of the person who had prepared the Accounting Report is completed as follows:

- CFO, head of accountancy department or other empowered person occupying this position as per law;

- Individual or legal entity, duly licensed, member of the Romanian Body of Chartered and Licensed Accountants (CECCAR).

"Other empowered person occupying this position" means any employee as per law who meets the conditions set by Law 82/1991, republished, with its further amendments and complements.

Accounting Report as at 30 June 2011 is also signed by the Director or by the person with whom management of the entity lies.

Submission of the Accounting Report

The Accounting Report can be submitted at the registration desk of the local units of MFP or sent by registered postal mail.

The Accounting Report in magnetic format is to be attached to the Accounting Report which has been printed, duly signed and stamped.

Deadline for submission of the Accounting Report

The Accounting Report as at 30 June 2011 must be submitted with local units of MFP on or before **16 August 2011**.

ORDER 2239 dated 30 June 2011 to approve the simplified accountancy regime (Official Gazette 522/2011)

The simplified accountancy regime comprises accounting regulations and rules for approval, signature and publication of simplified annual financial statements.

Provisions of this Order apply starting with annual financial statements pertaining to the 2011 financial year.

Eligibility for new simplified accounting regulations

Legal entities can opt to apply the simplified accountancy regime if, during the previous financial year, they have met both of the following criteria:

- net turnover up to the RON equivalent of Euro 35,000;
- total of assets up to the RON equivalent of Euro 35,000.

By applying the above mentioned criteria to 2010 and taking into account the NBR exchange rate in force as at 31 December 2010, i.e. 1 Euro = 4.2846 RON, an entity can opt for the simplified accounting regime in 2011 if, in 2010, it posted **net turnover and total assets of up to RON 149,968**.

A newly set up entity can either opt for application of the simplified accountancy regime or for application of the standard accountancy regime to report its first financial year, meaning Accounting Regulations in conformity with EU Directives approved by MFP Order 3055/2009. If during the second financial year, this entity no longer meets the criteria, it must apply the standard accountancy regime.

As for entities which meet both criteria but do not exercise the option regarding application of the simplified accounting regime, they should apply the standard accountancy regime.

Entities which, at the end of the previous financial year, exceed one or both of the above-mentioned criteria must apply the standard accountancy regime starting with the first accounting report for the year subsequent to exceeding the threshold(s). Individuals with a degree in economics may be hired on the basis of a contract concluded as per Civil Code to keep accounting records in accordance with the simplified regime as per provisions of article 10 point 3¹ of Accountancy Law 82/1991. Having determined that the threshold was exceeded, legal entities in the scenario described above must take necessary steps to comply with legal provisions regarding organisation and maintenance of accounting records. These entities must ensure preparation and signature of accounting reports by persons who are entitled to do so in accordance with applicable accounting regulations set by law starting with the first accounting report prepared in the financial year subsequent to exceeding threshold(s).

Who is not allowed to opt for the simplified accountancy regime?

The following entities are not allowed to opt for application of the simplified accountancy regime:

- legal entities whose securities can be traded on a regulated market;
- legal entities part of a group of companies subject to consolidation with a Romanian-based parent company, and have the obligation to prepare consolidated annual financial statements;
- national companies, companies fully or partially held by the State, "regii autonome", national institutes for research and development, cooperatives;
- legal entities whose activity is regulated and monitored by CNVM, CSA, CSSPP or NBR;
- sub units in Romania which are not legal entities which belong to legal entities whose registered headquarters are located abroad as well as sub units located abroad of Romanian legal entities whose activity is regulated and monitored by the bodies mentioned above.

What do simplified financial statements consist of?

Simplified financial statements only include the balance sheet and income statement. They must be accompanied by a written statement of the legal representative in which responsibility for their preparation in compliance with the simplified accountancy regime is affirmed.

Some information regarding the simplified accountancy regime

Chart of accounts: significant reduction in number of accounts

The base codification for some accounts changes. For instance:

- accounts 211 "Land" and 212 "Buildings" are combined to form a new account, 210 "Tangible fixed assets";
- accounts 301 "Raw materials" and 302 "Consumables" are combined to form a new account, 300 "Raw materials and consumables";
- accounts 401 "Accounts payable (A/P)" and 404 "A/P to suppliers of fixed assets" are combined to



Accounting Report as at 30 June 2011 to be submitted with tax authorities by 16 August 2011



form a new account, 400 "Accounts payable";

- accounts 4111 "Accounts receivable (A/R)" and 419 "A/R credit balances" are combined to form a new account, 410 "Accounts receivable".

It ought to be mentioned that depending information needs and complexity of economic and financial operations, it is also possible to use the general chart of accounts as well as accountings treatment in accordance with the standard accountancy regime.

Furthermore, it is possible to opt for the simplified accountancy regime and use all or part of the general chart of accounts of the standard accountancy regime or to use some of the accounting treatment of this regime. If such is the case, the entity which has opted for the simplified regime must, however, still prepare simplified annual financial statements.

Evaluation rules for entry of items into entity patrimony and upon release from inventory

The same rules which prevail in existing regulations apply.

Thus, rules used for first valuation of an item are:

- purchase price for items purchased at a cost;
- production cost for items manufactured by the entity;
- value of contribution in kind for items which represent contribution to share capital;
- fair value for items received free of charge or items found during a physical inventory in excess of recorded inventory quantities.

For valuation of release from inventory, the following methods can be used:

- first in first out – FIFO;
- last in first out – LIFO;
- weighted average cost – CMP.
- in retail trade**, inventory records may be kept at selling price. The k ratio should be used to allocate differences in pricing and value releases from inventory.
- depending on the specific activity, it is possible to use the standard cost method with, however, an obligation to calculate differences between standard cost and effective production cost.

Correction of accounting errors

Corrections of accounting errors always affect the income statement which is different from the standard accountancy regime where correction of accounting errors from previous financial years are made by adjusting opening retained earnings. It was probably assumed that for this type of entity, no significant error exists, which would explain why adjustment is not made on opening retained earnings.

As per already existing regulations, the error is corrected as at the date found and modification of financial statements which have been already submitted is forbidden.

In case the correction of accounting errors triggers a loss, no dividend can be distributed until the loss generated by the error is recovered.

Generally Accepted Accounting Principles

As general rule, economic activity is recorded at the transaction date and not at the date of collection or disbursement.

Expenses and revenue which directly and concurrently result from the same transactions are simultaneously recording in accounting records.

The following accounting principles are recognized:

- going concern principle;
- consistent application of accounting methods;
- prudence;
- matching principle;
- separate valuation;
- opening balances are not altered;
- no offset.

Balance sheet and income statement format

Forms are simplified:

- the balance sheet in the form of the list has 24 rows and presentation of the captions is in inverse order of liquidity for assets and depending on due date for liabilities (from fixed assets to prepaid expenses and from short term liabilities to equity);
- the income statement has 8 rows, from turnover to profit/loss for the period;
- no disclosure notes accompany these forms.

Simplified / Short / Comprehensive Financial Statements

Due to the fact that the present Order introduces the concept of "simplified annual financial statements," a name which already existed in Order 3055/2009 for entities which do not meet the criteria for preparation of comprehensive annual financial statements (for entities subject to audit), through this Order 2239/2011, the concept of "short annual financial statements" replaces the name given in Order 3055/2009 for this type of financial statements.

Therefore, starting with the 2011 financial year, there are 3 types of financial statements:

- Simplified financial statements prepared by entities which apply the simplified accountancy regime (Order 2239/2011 presented above);
- Short financial statements prepared by entities which apply the standard accountancy regime (Order 3055/2009) yet do not meet 2 of the 3 size criteria for comprehensive financial statements;
- Comprehensive financial statements prepared by entities which apply the standard accountancy regime (Order 3055/2009), meet at least 2 of the 3 size criteria and are also audited.

Class 2 – Non-current assets

20 Intangible assets

- 201 Set-up costs
- 203 Development costs
- 205 Concessions, patents, licences, trademark similar rights and assets
- 207 Goodwill
- 2071 Positive goodwill[¶]
- 2075 Negative goodwill[¶]
- 208 Other intangible assets

21 Tangible assets

- 211 Freehold land and land improvements
- 2111 Freehold land
- 2112 Land improvements
- 212 Buildings
- 213 Plant and machinery, motor vehicles, anin plantations
- 2131 Plant and machinery
- 2132 Measurement, control and adjustme devices
- 2133 Motor vehicles
- 2134 Animals and plantations
- 214 Fixtures and fittings

**Option for simplified
accounting regime
possible when both
turnover and total
assets are below
Euro 35,000**



EMERGENCY ORDINANCE 60 dated 29 June 2011 to approve the Mihail Kogălniceanu Programme for small and medium size enterprises (Official Gazette 460/2011)

The Ordinance approves the Programme named "Mihail Kogălniceanu" aimed at Small and Medium size Enterprises (SMEs). This governmental programme has the scope of granting facilities by partially subsidising interest expense and, if applicable, by having loans granted to SMEs guaranteed by the State.

This multi-year programme for sustaining and enhancing development of SMEs during the 2011-2013 period consists of granting lines of credit up to RON 125,000 per SME and per year with partially subsidized interest expense, and if applicable, State guarantee for the credit. The purpose is aimed at sustaining SMEs in access to financing, meeting short term financing needs (1 year) in order to carry out business activity, with the possibility of extension in conditions set per this Ordinance but not longer than the programme period.

SME are eligible for this programme if, at loan approval date, they meet all of the following criteria:

- they are not facing difficulties in regarding point 9 of the EU Commission Communication – community guidelines on State aid for rescuing and restructuring firms (2004/C 244/02), published in the European Union Official Gazette, series C, no. 244/2 dated 1st October 2004;
- in cases where a decision to recover public assistance was issued against them and where this decision was already enforced and the receivable fully collected;
- they are not in litigation - being sued - by the Ministry of Public Finance, the Ministry of Economy, Commerce and Business Environment or credit institutions with whom they cooperate;
- the amount of *de minimis* assistance they benefitted from during a period of 3 fiscal years (the 2 previous fiscal years plus the fiscal year in progress), including assistance granted through this Programme does not exceed the RON equivalent of Euro 200,000, or Euro 100,000 for SMEs which carry out their activities in the road transport sector;
- they are not disclosed in the database of the Central Organisation for Banking Risks with past due loans;
- they are not disclosed in the database of the Central Organisation for payment incidents regarding cheques and bills of trade during the previous 12 months;
- no insolvency procedure is opened against them on the basis of Law 85/2006 regarding insolvency procedures, with its further amendments and complements;
- they present collateral guarantees for at least 40% of the loan amount to the financing credit institutions;
- they have at least 2 consecutive years of activity;
- amounts drawn from the line of credit can only be used for:
 - o procurement, production and distribution expenses;
 - o expenses for performing work and/or providing services;
 - o expenses for building, processing and selling inventory;
 - o other types of expenses necessary to carry out current activity;
 - o payroll expenses and other assimilated expenses;
 - o payment of taxes, contributions and other amounts owed to the consolidated General Budget;
 - o other operating costs.

SMEs in the following sectors/domains are not eligible in the Programme: financial and insurance intermediaries, real estate transactions, gambling and betting, production of or trade in weapons, ammunition, explosives, tobacco, alcohol, products in the energy sector, substances under national control, plants, substances for and preparation of narcotic drugs and psychotropic medication, renting and leasing, investigation and security as well activities excluded by European Norms in which *de minimis* assistance cannot be granted.

ORDER 2230 dated 29 June 2011 to amend and complement Implementation Instructions for VAT exemption operations set per articles 143 point (1) letters a)- i), article 143 point (2) and article 144¹ of Law 571/2003 – Fiscal Code, with its further amendments and complements, approved by OMFP 2222/2006 (Official Gazette 498/2011)

Main amendments and complements introduced by the Order can be grouped in 3 main categories:

1. Update of necessary documentation to attest VAT exemption for export operations:
 - o Thus, up to now, 3 categories of documents were required: export customs statement (DVE), export accompanying document (EAD) and electronic certification of the export by the customs office;
 - o Due to the amendments introduced by the Order, only 2 documents are required: certification of the performance of the export operation by the export customs office (or certified export notification) and copy no. 3 of the DAU (sole administrative document).
2. Replacement of original copies provided in the Instructions in which a shipment outside EU is given as an example and for which new rules set at article 133 (8) of the Fiscal Code apply starting 1st January 2011. The example refers to a shipment outside the EU charged by a company registered under the scope of VAT in Romania to a company which is also registered under the scope of VAT in Romania. Up to now, these transport services were charged with VAT as per article 133(2) of the Fiscal Code, to date. In accordance with this Order, they are charged without VAT as per article 133 (8) of the Fiscal Code.
3. The Order states that if during a tax inspection, a customer VAT code disclosed on an EU invoice for



Programme for
sustaining SMEs
through access to
financing



an EU supply is found to be inaccurate, the invoice may be adjusted at the time of the tax inspection, verification of the correct VAT Code in VIES (VAT Information Exchange System) being made by tax inspectors.

ORDER 2351 dated 29 June 2011 to amend and complement Methodology for allocation of amounts paid by taxpayers into the sole account and to balance their recorded fiscal liabilities, approved by ANAF Presidential Order 1314/2007 (Official Gazette 464/2011)

Starting 1st July 2011, for transfer of income tax withheld from employees, a **separate payment order will be drafted for the headquarters and each secondary establishment where more than 5 employees are employed** to permit payment to the Treasury per fiscal registration code to which each secondary establishment is allotted. If amounts of income tax withheld from employees which should have been remitted (by headquarters or secondary establishment) and were not prior to 1st July 2011, they will be remitted from the taxpayer headquarters.

The return regarding income tax withheld from employees will continue to be submitted via declaration 112 where the fiscal registration code of each secondary establishment is disclosed.

REGULATION 8 dated 6 July 2011 regarding institutions which issue electronic currency (Official Gazette 508/2011)

ORDER 2286 dated 5 July 2011 to amend and complement Appendix to OMFP 2400/2010 regarding Implementation procedure for provisions of articles 61-65 and articles 74-80 of EU Regulation 1186/2009 of the Council dated 16 November 2009 to establish a community-wide system for customs duty exemption (Official Gazette 515/2011)

ORDER 5015 dated 20 June 2011 to amend ANAF Vice-Presidential Order 4822/2007 to approve methodological Norms for licensing exporters in the scope of issuing A.TR. certificates which attest the status of goods in free circulation within the EU-Turkey customs union, as per the simplified procedure to prove preferential origin in the frame of agreements which rule international trade between the Community and partner States (Official Gazette 457/2011)

DECISION 668 dated 29 June 2011 to designate competent authorities in implementing European Regulation 995/2010 issued by the European Parliament and by the Council on 30 October 2010 setting the obligations of operators which introduce wood and wood products into the market (Official Gazette 490/2011)

DECISION 661 dated 29 June 2011 to set measures to ensure domestic application of provisions of EU Regulation no. 66/2010 of the European Parliament and of the Council dated 25 November 2009 regarding EU ecology labelling (Official Gazette 477/2011)

EU ecology labelling represents a **graphic symbol accompanied by a short descriptive text** placed on the product, its packaging, in a leaflet or other document with information accompanying the product and which provides one to three types of environmental impact statements.

The symbol for the EU ecology label is a flower with petals which form star. **The EU ecology label (European Flower)**, created by the European Commission in 1992, is a unique certification device to help consumers differentiate the EU label for **green** products/services which do not affect the environment.

Over the last 10 years, the European Ecology Label has become a symbol with a European dimension for products/services.

The EU ecology label has the following objectives:

- encourage industry to design and manufacture products with a minimum impact upon environment during production, distribution, consumption and use phases as well as upon disposal after use;
- provide consumers with better information regarding environmental impact of products/services.

Application for receiving EU ecology labelling for products introduced on the market implies payment of a fee for processing the application. The fee applies to each application and is Euro 200 in RON equivalent at the NBR exchange rate at payment date. No annual fee is levied.

This decision enters in force on 6 August 2011.

REMINDER – 2010 consolidated annual financial statements

As per provisions of OMFP 3055/2009 to approve Accounting Regulations in conformity with European Directives (Official Gazette 766/2009), a parent company is exempted from preparing consolidated financial statements if, as at the consolidated financial statement date, the companies which are to be consolidated do not exceed - on the basis of their most recent stand-alone financial statements - 2 of the 3 following criteria in total:

- total assets – Euro 17,520,000;
- net turnover – Euro 35,040,000;
- average headcount during financial year - 250.

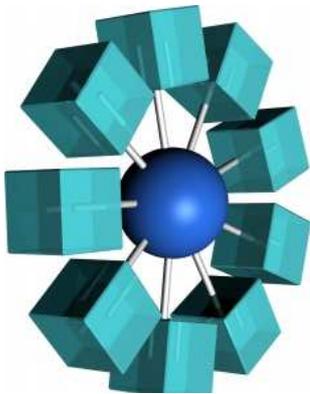
Companies which must prepare annual consolidated financial statements may either prepare them in accordance with Accounting Regulations in conformity with Directive VII of the European Economic Community or IFRS.

Regarding accounting regulations applicable to consolidated financial statements, we mention provisions



**Income tax withheld
from employees
located headquarters
and secondary
establishments
remitted separately**





of Law 259 dated 19 July 2007 to amend and complement 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 are consolidated with 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 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 group activity.
- Members of administration, management and supervision bodies have the obligation to ensure that 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 of parent company financial year-end (i.e. by 31 August 2011 for the financial year ended as at 31 December 2010).**

As per Emergency Ordinance 37 dated 13 April 2011 to amend and complement Accountancy Law 82/1991 and to amend other related texts (Official Gazette 285/2011), the Board of Directors or the Directorate of the parent company as defined in applicable accounting regulations must **submit the consolidated annual financial statements to territorial units of MFP** within 15 days starting date of approval as per legal provisions in force.

REMINDER - Transfer price file

Order 222 dated 8 February 2008 (Official Gazette 129/2008) sets the content of the transfer price file.

- To set transfer prices, taxable entities which carry out transactions with related parties must, upon request of tax authorities, prepare and present in the time frame set by tax authorities, a transfer price file.
- The request for presentation of the transfer price file will be made during a full or partial tax inspection.
- To set the deadline for preparation and remittance of the transfer price file, tax authorities will take into account the number of related parties involved in the transactions, the number of transactions carried out and their complexity as well as their duration. The deadline for submitting the transfer price file will be at most 3 calendar months with the possibility of one extension upon taxpayer request for a period equal to the one initially set.
- Refusal to submit the transfer price file or incomplete presentation by the deadline set by tax authorities is deemed to represent transactions performed with related parties without justification of transfer prices used and will trigger assessment of transfer prices by tax authorities.
- In case the taxpayer is applying anticipated price agreements issued by ANAF, preparation and submission of the transfer price file is not necessary for transactions and periods to which these agreements refer.

The transfer price file contains:

Information about the Group

- Group organisation chart, legal and operational structure including ownership interests, historical record and financial information;
- General description of Group activities, business strategies, including changes in strategy in comparison to the previous financial year;
- Description and implementation of transfer price methods, if any;
- General presentation of transactions with related parties:
 - o transaction mode;
 - o invoicing mode;
 - o value of transactions.
- General description of functions and risks assumed by related parties, included changes in this respect in comparison to the prior year;
- Presentation of holders of intangible assets within the Group (patent, name, know-how, etc.) as well as royalties paid or received;
- Presentation of anticipated price agreements concluded by the taxpayer or by other companies within the Group, except for those issued by ANAF.

Information about the taxpayer

- Detailed presentation of transactions with related parties:
 - o transaction mode;
 - o invoicing mode;

Transactions with related parties imply preparation of transfer price file



- o value of transactions.
- ☑ Presentation of comparative analysis:
 - o features of goods or services;
 - o functional analysis (functions, risks, use of non-current assets, etc.);
 - o contractual terms;
 - o economic surroundings;
 - o specific business strategies;
 - o information on comparable international or domestic transactions.
- ☑ Presentation of related parties and their permanent establishments involved in these transactions or agreements;
- ☑ Description of method for computing transfer price and rationale for selection criteria:
 - o in case the traditional methods of determination of transfer price are not used, this option will be justified;
 - o in all cases when the method of price comparison is not applied, this option will be justified.
- ☑ Description of other circumstances considered relevant by the taxpayer.

As per ANAF Order 14 dated 5 January 2010 regarding conditions and modalities to suspend tax inspection (Office Gazette 40/2010), a tax inspection can be suspended to draft and present the transfer price file in cases where taxpayers which carry out transactions with related parties.

Law 76 dated 6 May 2010 to approve Emergency Government Ordinance 109/2009 to amend and complement Law 571/2003 – Fiscal Code (Official Gazette 307/2010) expressly specified that **regulations regarding transfer pricing also apply to Romanian related parties**. The direct consequence is that the transfer price file can also be requested when Romanian related parties are involved.

INSTRUCTION 22 dated 1st July 2011 regarding the reference interest rate of the National Bank of Romania (NBR) for the month of July 2011 (Official Gazette 464/2011)

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

SUMMER JOBS AND INTERNSHIPS

During the holidays, pupils and students aged 16 or above can work in different seasonal activities on a temporary basis. Parental consent is required for pupils and students who are 16 or 17 years old. Only pupils or students 18 years and older may occupy work positions with difficult working conditions, hazardous or presenting risk of injury.

A labour contract for a determined period can be concluded. The trial period is 5 working days for a labour contract for less than 3 months. The number of working hours for employees under 18 years old cannot exceed 6 hours per day and 30 hours per week. Overtime or night shifts are not allowed. A daily luncheon break of 30 minutes must be granted.

The employer which, during legal school vacation periods, recruits pupils or students will benefit from monthly financial aid equal to 50% of the social reference indicator (RON 500) for each employed pupil or student, but no more than 60 working days per calendar year. To benefit from this aid, the employer must conclude an agreement with the Labour Agency within 30 days of the employment date during legal school vacation periods.

The financial aid is deducted by the employer from employer contributions to unemployment insurance.

There is also the possibility of internships, especially for students, on an unpaid basis.

As for the civil contracts, some tax inspectors do not recognize them as not aimed for one-off, non recurrent activities and re-qualify them as labour contracts with all social and fiscal obligations it triggers.

REMINDER – Unemployment allowances for new graduates

Graduates who 60 days after the date of their graduation, have not succeeded in finding a job may receive unemployment allowances. These are granted after the expiry of the period of 60 days upon registration with the Labour Agency, 30 days after expiry of that period of 60 days at the latest.

Unemployment allowances are granted once for each form of education sanctioned by a diploma. The amount is 50% of the social reference indicator and is granted for a period of 6 months. Graduates who, on the date of the application, continue their education do not qualify for unemployment allowances.

As per Emergency Ordinance 108 dated 6 December 2010 to amend and complement Law 76/2002 regarding the regime of unemployment insurance and enhancing employment (Official Gazette 830/2010), the person who applied for their unemployment rights but refused a position adequate for his/her training or level of studies, or refused to benefit from services provided by employment agencies or attend a professional training session cannot benefit from unemployment allowances.

REMINDER – Reduction of employer unemployment contributions for employers who hire unemployed persons for at least 6 months

As per article 93 of Law 76/2002 on the unemployment regime, employers which hire persons who were unemployed and maintained the labour relationship for a period of at least 6 months from hire date, benefit of a reduction of 0.5% of contributions they owe to the unemployment insurance Budget. The incentive is granted starting the subsequent fiscal year for a period of 6 months and consists of a reduction of 0.5% of monthly contributions due for each percentage of the ratio between the number of newly hired employees and the average headcount in the respective year. The employer will submit an application (the model was published with Implementation Norms of the Law) to the Bucharest or local Employment Agency accompanied by the following documents:



APEX Team offers assistance in drafting transfer price files



- Nominative list of persons hired who were unemployed and registered as such with the Bucharest or local Employment Agency and who have been employed for a period of at least 6 months;
 - Photocopies of the labour contracts for persons disclosed on the above mentioned list.
- The application with accompanying documents is submitted at expiry of the 6 month period during which the persons who were unemployed at hire date and registered with the Employment Agency have been employed, but no later than 30 June of the fiscal year which follows the year the 6 months period ends.

BE AWARE! Computation of compensation for days off

In accordance with article 150 points 1 and 2 of the Labour Code:

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

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

An example of computation for days off taken in August 2011:

Month	Base salary with permanent compensation and bonuses	Working days
May 2011	RON 2,100	22
June 2011	RON 2,100	21
July 2011	RON 2,100	21
Total 3 last months	RON 6,300	64
August 2011	RON 2,100	22

Daily average (6,300/64): **RON 98.44**

Daily average for the month of AUGUST (2,100/22): **RON 95.45**

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

Thus, assuming the employee was on vacation for 10 days in August 2011, compensation paid will be:

$$10 \text{ days off} * \text{RON } 98.44 = \text{RON } 984$$

The outcome is RON 29 higher than the base salary and permanent compensation/bonus the employee would have received if he/she would have worked the entire month.

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

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 670 *currently*). 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 may grant holiday vouchers in 2011 **only if the enterprise has posted a fiscal profit during 2010**.

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 – 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 2011:

$$1 \text{ Euro} = 4,2403 \text{ RON}; \quad 1 \text{ USD} = 2,9682 \text{ RON}; \quad 1 \text{ CHF} = 3,7057 \text{ RON}; \quad 1 \text{ GBP} = 4,8287 \text{ RON}.$$

AUGUST 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 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



**No luncheon vouchers
for days off!**



- To issue final invoices for the month of August 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 Friday 5 August 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 July 2011. Starting August 2011, VAT returns will be submitted monthly.

That Wednesday 10 August is the last day to submit

- Return on collection of hotel tax

That Wednesday 10 August is the last day to pay

- Hotel tax
- Advertising service tax

That Monday 15 August is a legal holiday, Assumption

That Tuesday 16 August is the last day to submit

- INTRASTAT statement for July 2011 (standard or extended submitted on-line)
- Recapitulative statement of EU Supplies/acquisitions/services (form 390)* for July 2011;
- "Accounting report" as at 30 June 2011, only for entities required to submit;**
- Return regarding the state of acquisitions and deliveries of excisable products for July 2011.

That Thursday 25 August is the last day to submit

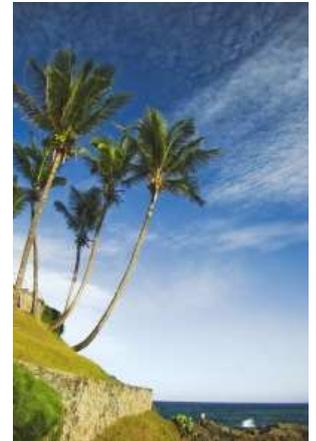
- State budget liability return (form 100)*;
- Return regarding social contributions, income tax and nominative list of insured persons (**mandatory on-line submission of form 112***);
- VAT return (form 300)*;
- Special VAT return for VAT non payers (form 301)*;
- Statement of income obtained from abroad 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 (excluding "ecotax").

That Thursday 25 August is the last day to pay

- Excise taxes
- VAT
- Liabilities to the sole account – **State Budget**
 - 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" excluded).

That Wednesday 31 August is the last day to prepare and submit 2010 consolidated annual financial statements.

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



Note deadline for fiscal liability payments!
Interest for late payment is 0.04% per day



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) ¹	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) ¹ (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) ²	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% ¹
Contribution to health insurance	0%	0% ²
Contribution to unemployment insurance (<i>if applicable</i>)	0%	0.5% ³
Income tax		16% ⁴

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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Our Mission:
Adding Value to Client's Business

www.apex-team.ro

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