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Dear clients, business partners and readers of APEX Team newsletters:

We have the great pleasure to share with you the joy of continued recognition APEX Team was awarded by **the Romanian Body of Chartered Accountants (CECCAR)**. We were honored to receive the special 2012 award for large companies from CECCAR at a ceremony on 6 September.

This award was followed by another prize from the Bucharest Branch of CECCAR for results achieved by the APEX Team.

We are proud of this recognition by our professional body and want to thank all of you for the extraordinary collaboration that allowed us to obtain these results.



ORDINANCE 15 dated 23 August 2012 to amend and complement Law 571/2003 regarding the Fiscal Code (Official Gazette 621/2012)

This Ordinance amends the Fiscal Code. We have presented the amendments effective on 1 September and 1 October 2012 in APEX Team Newsletter no. 8 2012, these amendments affecting corporate tax, income tax and social contributions.

Please note that from information obtained from the Ministry of Finance by APEX, Methodological Norms for amendments brought to the Fiscal Code are currently under development and are expected to be published in October.

As promised, we present changes with respect to VAT which will go into effect in 2013 in this issue.

VAT

Amendments introduced by the Ordinance reflect provisions of Directive EC/45/2010.

I. VAT cash accounting scheme

Eligibility conditions

The VAT cash accounting scheme is effective starting 1 January 2013 and its application is mandatory for:

- taxable entities which are VAT registered pursuant to art. 153 of Fiscal Code, having their place of economic activity in Romania and whose turnover for the previous calendar year does not exceed the RON 2,250,000 threshold.
- taxable entities who are established in Romania and register for VAT purposes pursuant to art. 153 during the year, starting with the date of registration for VAT purposes.

This scheme is not applicable for taxable entities belonging to a fiscal group, in accordance with provisions of art. 127 paragraph (8) of Fiscal Code.

What is included in turnover taken as basis of reference for new VAT scheme applicability?

Turnover used to calculate the threshold of RON 2,250,000 includes:

- total value of delivery of goods and services performed which are taxable and/or exempted with the right of deduction
- value of operations resulting from business activities with location of delivery/performance is considered to be outside Romania, in accordance with art. 132 and 133 of Fiscal Code.

How the VAT cash accounting scheme works

This scheme implies that chargeability of the tax is on the date of full or partial collection of the value of goods delivered or services rendered, but no later than 90 days. If collection is not performed within 90 days, the chargeability of VAT is on the 90th day from issuance of the invoice or from the date when the invoice should have been issued.

Consequently, the deduction right on VAT related to acquisitions made by:

- a taxable entity **which applies the VAT cash accounting scheme**
- or
- a taxable entity **from another taxable entity which applies the VAT cash accounting scheme is deferred** until the tax related to the goods and services which were delivered/rendered to the buyer, even if part of the operations carried out by the taxable entity are excluded from application of the VAT cash accounting scheme.



If any customer receipt occurs during the 90 day period, collection of VAT is made in proportion of amount received (receipt) to the total invoice. As a calculation procedure, it is presumed that the value of the receipt includes VAT invoiced to the customer. VAT collected from the receipt will be subsequently determined through the gross-up mechanism, using the applicable VAT rate. The same system is applicable by the payer to deduct VAT.

Notice that while collected VAT has a maximum 90 day grace period, the buyer will not be able to deduct VAT before payment of the invoices to the supplier, irrespective of payment terms.

The scheme will not only impact taxpayers eligible to apply the scheme, but also others making acquisitions from eligible taxpayers.

The scheme is not applicable for Intra-Community acquisition of goods, imports, or acquisition of goods/services subject to reverse tax.

When the VAT cash accounting scheme does not apply

The scheme only applies to those operations where location of delivery, pursuant to provisions of art. 132, or the place of performance, pursuant to provisions of art. 133, is deemed to be in Romania.

This scheme may not be applied to the following operations which are subject to general VAT chargeability rules:

- a) delivery of goods/performance of services whose beneficiary is an entity liable for the tax pursuant to art. 150 paragraphs (2) – (6), art. 152³ paragraph (10) or art. 160 of Fiscal Code (subject to reverse tax);
- b) delivery of goods/performance of services which are VAT-exempt;
- c) operations subject to special regimes set out per art. 152¹-152³ of Fiscal Code;
- d) delivery of goods/performance of services whose **equivalent value is paid in cash, in part or in full**, by a taxable entity eligible for application of the VAT cash accounting scheme: legal entities, individuals registered for VAT purposes, authorized individuals, freelancers or non-profit organizations;
- e) delivery of goods/performance of services whose beneficiary is an affiliate of the supplier/provider, pursuant to art. 7 paragraph (1) item 21 of Fiscal Code.

Information obtained by APEX from the Ministry of Finance revealed the intention to amend the exception concerning operations whose value is collected in cash (letter d above) through amendments to be made to Norms of the Fiscal Code, to limit the cases when collection in cash would be made with the intention to exclude the transaction from the scope of applying the VAT cash accounting scheme.

Changing the scheme as of the beginning of a fiscal year

As a general rule, taxable entities which have their place of economic activity in Romania which did not apply the VAT cash accounting scheme in the previous year and whose turnover for the previous year does not exceed the RON 2,250,000 threshold must apply the VAT cash accounting scheme starting the **first day of the second VAT period of the year following the year in which they did not exceed the threshold.**

In this regard affected taxable entities are required to submit to fiscal authorities by 25 January, inclusive, a notification that turnover from the previous year did not exceed the RON 2,250,000 threshold. The notification is not required for entities which applied the VAT cash accounting scheme in the previous calendar year and are required to continue to apply the scheme as their turnover in the previous year did not exceed the RON 2,250,000 threshold.

If the required notification is not submitted by eligible taxpayers, fiscal authorities will register them in the Registry of taxable entities applying the VAT cash accounting scheme by default, starting the date included in the related registration decision. Between the date when the taxable entity had the obligation to apply the VAT cash accounting scheme and the date of default registration, the VAT deduction right related to acquisitions is delayed until invoices are paid to suppliers and the general chargeability rules apply for VAT collected for delivery of goods/performance of services.

Changing the scheme during the year

If turnover exceeds the RON 2,250,000 threshold during the year, the VAT cash accounting scheme is applied through the end of the VAT period after the period when the threshold is exceeded.

In this regard a notification should be submitted to fiscal authorities by the 25th of the month subsequent to the VAT period when the threshold was exceeded, at the latest.

If the required notification is not submitted by eligible taxpayers, fiscal authorities will de-register these taxpayers from the Registry of taxable entities applying the VAT cash accounting scheme by default, starting the date included in the related de-registration decision.

Between the date when the taxable entity had the obligation to de-register from the VAT cash accounting scheme and the date of default de-registration, the VAT deduction right related to acquisitions is delayed until invoices are paid to suppliers and the general chargeability rules apply for VAT collected for delivery of goods/performance of services.

Application of VAT cash accounting scheme starting 1 January 2013 – special rule

The Ordinance introduces a special rule concerning application of the scheme starting 1 January, 2013. The taxable entity which applies the VAT cash accounting scheme starting 1 January, 2013, has the obligation to submit, by 25 October 2012, inclusive, a notification to fiscal authorities showing that turnover registered during 1 October 2011 – 30 September 2012, inclusive, does not exceed the RON 2,250,000 threshold. In case of non-submission, the taxable entity will be registered by default by fiscal authorities in the Registry of taxable entities applying the VAT cash accounting scheme by 1 January 2013.

Registry of taxable entities applying the VAT cash accounting scheme

ANAF has established the Registry of taxable entities applying the VAT cash accounting scheme. This Registry is publicly available on the ANAF website.

The VAT cash accounting scheme - a new challenge for 2013



Registration and de-registration from the Registry is performed by fiscal authorities by the 1st day of the VAT period following the day of submission of notification or the default date. As an exception, taxable entities which registered for VAT purposes during the year are recorded in the Registry by default by fiscal authorities starting the date of their registration for VAT purposes.

Other provisions regarding the VAT cash accounting scheme

The Ordinance introduces rules applicable to invoices issued by taxable entities before entering into or leaving the VAT cash accounting scheme.

Provisions concerning the VAT cash accounting scheme are also applied by taxable entities under mixed VAT regimes (pro-rata based). Thus, in order to determine the pro-rata, the values of the numerator and denominator are determined based on chargeability date when applying the general rules.

II. Other amendments - VAT

Chargeability of advances

An exception to the general rule regarding chargeability of amounts collected or paid as a partial/total advance is introduced whereby chargeability occurs before the chargeable event. According to this exception, the general rule is not applicable to advances relating to Intra-Community deliveries and transfer of goods. Thus, starting with 2013, such advances shall no longer be reported in the Recapitulative Statement of EU Supply/acquisition/services (Form 390) nor should the reverse tax be registered upon payment of such advances. Pay attention to the fact that the exception is only valid if no invoice is issued for the advance; otherwise, the general chargeability rules apply, and chargeability occurs before the chargeable event.

Missing inventory

Missing inventory shall no longer be considered as a self-supply of goods, but provisions on adjustment of the VAT deduction right will be applicable in such cases, with certain exceptions.

A radical change of interpretation is introduced in the case of stolen goods. Thus, stolen goods are currently exempt from VAT self-collection, provided they are not chargeable and the taxable entity can prove the theft was documented by police authorities. Starting 2013, the only exception for adjustment of the deduction right for stolen goods will be applicable to cases legally proven by a **final Court Decision**. It can be easily noticed the subtle change in the Fiscal Code and, implicitly, limitation of the number of cases to benefit from this exception, given the extended length of time necessary for the investigation authorities to prosecute the case and time needed to reach a final Court Decision.

Long-term hire of transport

Starting 1 January 2013, the place of supply for services consisting of long term hire of means of transport, including lease services, to non-taxable entities, will be the location where the client is established, where it has its permanent address or usually resides, except for leisure boats, for which the location of supply will be where the leisure boat is effectively put at the disposal of the client, as long as the respective service is actually rendered by the supplier from its place of business or its fixed establishment situated in that place.

The chargeable event for supply of services

Supply of services which are not subject to specific rules of establishing the chargeable event is considered **performed on the date when the supply of the respective service is finalized**.

Exchange rate (art. 139¹)

The article regarding exchange rates is complemented by the possibility of using the rate of exchange published by the European Central Bank (ECB).

Thus, if the elements used to determine the taxable amount of an operation, other than import of goods, are expressed in a foreign currency, the applicable rate exchange is:

- the last rate of exchange communicated by the National Bank of Romania (NBR)
- or
- the last rate of exchange published by the ECB
- or
- the rate of exchange used by the settlement bank, valid on the date when the chargeability of tax occurs.

For transactions subject to the VAT cash accounting scheme, the rate of exchange to be used will be as of the date when chargeability of the tax would have occurred under general rules. Thus, under the VAT cash accounting scheme, adjustment to the exchange rate on the receipt(s) date will not be necessary. When using the ECB rate, conversion between currencies, other than EUR, is done through the EUR rate of exchange for each currency.

The contracts between parties should indicate whether the rate of exchange of a commercial bank is to be used; otherwise, the rate of exchange communicated by the either NBR or ECB will apply.

Deduction conditions

Art. 146, regarding conditions to exercise the deduction right, is complemented with the requirement to present proof of payment in case of acquisitions made by taxable entities using the VAT cash accounting scheme or by taxable entities which acquire goods/services from suppliers which apply the VAT cash accounting scheme. This requirement is in addition to the requirement to hold an invoice compliant with art. 155 (invoicing).

Invoicing

Article 155 on invoicing is redefined in full.

The compulsory elements of an invoice are either amended or redefined. Examples:

- in case of a customer subject to VAT, the invoice must include the wording, "reverse tax"



The exception to adjust VAT on stolen goods will become very difficult to apply from 2013



- ☑ in case a special scheme is applied, the wording required to appear on the invoice is: "margin scheme – travel agents," "margin scheme – second-hand goods," "margin scheme – works of art," or "margin scheme – collectors' items and antiques"
- ☑ in case of applying the VAT cash accounting scheme, the wording "VAT cash accounting scheme" should be included on the invoice.

In case of delivery of goods and performance of services whose place of delivery/performance, is not deemed to be Romania, pursuant to provisions of art. 132 and 133, invoicing is subject to the **norms applicable in the Member State where the delivery of goods/performance of services takes place.**

For delivery of goods and performance of services where location of delivery/performance **is deemed to be in Romania** (art. 132 and 133) made by a supplier/provider which is not established in Romania, but is established in the Community, and the entity subject to pay VAT pursuant to art. 150 is the beneficiary of the respective delivery/performance, invoicing will be subject to the **norms applicable in the Member State where the supplier/provider is established** (e.g. operations of Intra-Community acquisition of goods in Romania, Intra-Community acquisition of services).

It is clearly specified that there is no longer the obligation to issue an invoice in case of advances for Intra-Community delivery of goods.

Additional provisions regarding electronic invoicing, simplified invoices and invoice archiving were introduced.

The taxable entity which has the obligation to issue invoices or opts to issue them, may issue **simplified invoices** when the value of the invoices is less than EUR 400, VAT included. The simplified regime consists of a reduced level of mandatory information to be included on the invoice, such as: issuance date, identification of the taxable entity that delivered the goods or performed the services, identification of the type of goods or services delivered, the amount of the collected tax or information required to calculate it. Simplified invoices cannot be issued for distance selling, Intra-Community delivery of goods, or operations where place of delivery is deemed to be outside Romania.

Deferral of VAT payment to customs authorities

Deferral of VAT payment to customs authorities for import of goods is allowed through 31 December 2016 by the taxable entities which obtain a certificate in this respect from the customs authority.

EMERGENCY ORDINANCE 47 dated 1 September 2012 to amend and complement certain items of law and to regulate certain fiscal and budgetary measures (Official Gazette 635/2012)

The Ordinance amends several items of law. We summarize amendments to Law 31/1990 regarding commercial companies with respect to the penalty interest due by the company for late payment of dividends to shareholders.

In fact, the Ordinance updates provisions of Law 31/1990 regarding commercial companies with provisions of the Government Ordinance 13/2011 regarding legal interest rates for loans and penalties for past due liabilities as well as regulation of financial and fiscal measures in the banking sector (presented in APEX Newsletter 8/2011).

In this context, the former term, "damages," is replaced with the term, "interest," and is applicable when the company does not respect its obligation to settle dividends by the date due. We remind that this term/date is the one established by the General Meeting of the Shareholders or by other special laws; however, no later than 6 months from approval date of the annual financial statements for the applicable financial year. Failing to meet this date, the company owes interest, unless the Constitutive Deed or a Decision of the General Meeting of Shareholders approving the financial statements for the financial year provides for a higher interest rate.

According to Government Ordinance 3/2011, the interest rate is set at the level of the reference interest rate of the National Bank of Romania plus 4% (5.25% + 4% = 9.25%).

ORDER 1276 dated 23 August 2012 regarding certain international treaties entering into force (Official Gazette 626/2012)

Provisions of the new Convention for Avoidance of Double Taxation between Romania and Saudi Arabia become applicable starting with 1 January 2013. It was ratified by Law 259/2011 and implemented by Order 1276/2012 issued by the Romanian Minister of Foreign Affairs, being applicable starting with 1 January of the following year.

The tax rates provided for by the Convention are:

- ☑ Dividends 5%
- ☑ Interest (income from receivable titles) 5%
- ☑ Royalties 10%

DECISION 925 dated 12 September 2012 to amend art. 1 paragraph (2) letters a) and b) of GD 1.261/2011 setting the number of work permits which can be issued to foreigners in 2012 (Official Gazette 662/2012)

The Decision amends the number of work permits approved for 2012 under the Government Decision 1261/2011. Thus, under this Decision, the number of work permits for permanent workers is reduced by 700, whereas the number of authorizations for secondees workers is increased by 700. The total number of work permits for 2012 remains 5,500, broken down by type of permit. For further details, please consult the APEX Team Newsletter no. 12 of 2011.



**New
invoicing
rules from
2013**



ORDER 1352 dated 10 September 2012 laying down certain competences for performance of the fiscal inspection of individuals (Official Gazette 654/2012)

The body in charge of performing inspections is an internal unit of ANAF having the competence to carry out partial fiscal inspections regarding the obligation to calculate, withhold and pay income tax, as provided for by the law, for all individuals, irrespective of their organization form, on the entire Romanian territory.

ORDER 1303 dated 4 September 2012 to amend and complement the ANAF Presidential Order 1.438/2009 approving the template of certain forms used for collection of fiscal receivables (Official Gazette 637/2012)

This order approves the template of new forms to be used for collection of fiscal receivables, as follows:

- Request for open the sequester procedure over the cash accounts;
- Notification of opening the sequester procedure over the cash accounts;
- Decision for cancelling the sequester measures over the cash accounts.

These forms are edited with IT systems and are valid without signature and stamp.

IMPORTANT – On-line VAT registers

The following applications are operational on the ANAF website:

- Register of taxable entities registered for VAT purposes, according to art. 153
- Register of taxable entities whose registration for VAT purposes was cancelled

These Registers can be accessed on the ANAF portal (www.anaf.ro), **Public Information** section, **Information regarding taxpayers** menu, **Register of taxable entities registered for VAT purposes** sub-menu, on the first page.

The “Register of inactive/reactivated taxpayers” is available at the same address, with a search option for the fiscal identification code or name/county.

INFO – Fiscal liabilities for payers of agricultural income subject to withholding tax

Definitions

Enterprises specialized in collection are the units where agricultural products are stored and safeguarded, to ensure the integrity of their main qualities, based on varied technological usage, and to maintain their hygienic and nutritional value. Examples: store rooms, warehouses and elevators.

Enterprises specialized in industrial processing of vegetable products are the technological units where the agricultural products are turned into food or fodder through processes which materially changes the initial product. Examples: industrial processing units for cereal, grain, leguminous plants, dry beans, root plants, field-grown vegetables, industrial plants, green fodder from ploughed land, fruit.

Other entities to be used as such are units which acquire vegetable agricultural products and use them as fodder for animals. Examples: stock farms, etc.

Agricultural products are vegetable agricultural products obtained after harvesting, in natural state, from agricultural land. Examples: grain for cereal (wheat, rye, barley, rice, corn, etc.), dry leguminous beans (pea, chickpea, bean, etc.), root plants (potatoes, sugar beets, mangel-wurzel, etc.), industrial plants (rape, sun-flower, soya beans for oil – seeds, tobacco, etc.), green fodder from ploughed land (green fodder corn, trefoil, lucerne, etc.), field-grown vegetables (cabbage, spinach, lettuce, melon, egg-plant, cucumber, pepper, vegetable marrow, carrots, etc.), fruits (peach, apricot, grapes, sweet cherries, black cherries, nuts, quince, raspberry, apple, pear, etc.).

Fiscal liabilities

For taxpayers which obtain income from selling agricultural products after harvesting, in natural state, from private or leased agricultural land, to specialized collection enterprises, industrial processing enterprises or other entities, a 2% income tax and 5.5% health insurance contributions (CASS) are due, and are final obligations.

Attention! For taxpayers referred to under art. 71 letter d) of the Fiscal Code, the individual social (pension) insurance contribution (CAS) is not due for income obtained from agricultural activities.

The monthly base used to calculate the income tax and CASS is represented by the value of products delivered and the obligation to calculate, withhold and transfer these taxes rests with the income payer.

Income payers shall withhold and transfer income tax and CASS by the 25th of the month after income was paid, meaning the month following the quarter when the income was paid (the term set out by the entity's fiscal vector report).

Income taxes and CASS will be declared on Form 112, Section C, which is submitted through remote electronic transmission. In this case, the income payer must hold a qualified certificate, issued as provided for by Law 455/2001 regarding electronic signature.

Starting with July obligations, taxpayers file Form 112, Section C, based on instructions from the common Order 1.045/2.084/793/2012 issued by the Vice Prime Minister, the Minister of Public Finance, the Minister of Labor, Family and Social Protection and the Minister of Health.

Form 112 is submitted quarterly or monthly, as set out in the entity's fiscal vector report.

Other remarks

Starting 1st September 2012, income payers no longer calculate and withhold CASS from beneficiaries who perform business activities independently and are fiscally registered according to applicable legislation.



**The Register of
entities
registered for VAT
purposes is
available online**



Note! During 1st July – 31st August 2012, in case of individuals who generate agriculture income below the level of the monthly minimum base gross salary by country and are not part of families collecting social benefits, the monthly base for the CASS calculation was one third of the minimum base salary per country (233 RON, or 1/3 of 700 RON).

Again, starting 1st September 2012, for income beneficiaries who generate agriculture income under 700 RON and are not part of the families collecting social benefits, 5.5% CASS is due (calculation base: value of the sold products).

Source: DGFP Vâlcea



INFO – Fiscal obligations for payers of income subject to withholding tax

In accordance with amendments to the Fiscal Code under Government Emergency Ordinance 125/2011 and the Government Ordinance 15/2012, income payers, legal entities or other entities which have the obligation to keep accounting records, must calculate, withhold and transfer income tax, representing early payments, for income paid for: intellectual property; activities performed under contracts concluded as per the Civil Code, as well as under agent agreements; judiciary and extra-judiciary accounting and technical expert investigation activity; as well as association of an individual with a legal entity which pays micro enterprise income tax.

Important! According to provisions of Government Ordinance 15/2012, starting with 1 September 2012, the 10% or 16% income tax relative to income derived from contracts concluded as per the Civil Code by taxpayers who perform business activities independently or as freelancers and are fiscally registered in accordance with the applicable legislation, will no longer be withheld.

For the above mentioned taxpayers, individual social contributions are contributions which should be calculated, withheld, declared and transferred by the income payers.

Individual social contributions are declared on Form 112, submitted by electronic means of remote transmission. In this case, the income payer must hold a qualified certificate, issued as provided for by Law 455/2001 regarding electronic signatures.

Starting with July obligations, taxpayers file Form 112, Section C, based on instructions from common Order 1.045/2.084/793/2012 issued by the Vice Prime Minister, the Minister of Public Finance, the Minister of Labor, Family and Social Protection and the Minister of Health.

Form 112 is submitted quarterly or monthly, as set out in the entity's fiscal vector report.

Fiscal liabilities

For taxpayers obtaining income derived from contracts concluded as per the Civil Code, as well as under agent contracts, judiciary and extra-judiciary accounting and technical expert investigation activity, the income payers calculate and withhold the following contributions:

- individual social insurance contribution (CAS – 10.5%) and individual social health insurance contribution (CASS – 5.5%), provided that this is the only income obtained;
- only CASS – 5.5%, if the person who obtains income benefits from one of the categories of pension paid by the public pension scheme or is retired.

The monthly basis for the CAS calculation is gross income capped at 5 times the average gross salary (for 2012: 10,585 RON).

The monthly basis for the CASS calculation is gross income set out in the agreements mentioned above.

Attention! For individuals who obtain income based on agent agreements, social contributions are due.

For taxpayers who obtain income from intellectual property, provided that this is the only income generated, income payers calculate and withhold the following contributions:

- individual social insurance contribution (CAS – 10.5%). The monthly contribution base is gross income less the flat expense rate of 20% or 25%, limited at 5 times the average gross salary (2012: RON 10,585);
- individual social health insurance contribution (CASS – 5.5%). The monthly contribution base is gross income less the flat expense rate of 20% or 25%.

Important! Taxpayers do not have to pay the two contributions if they also obtain other types of income or: are insured in the public pension system, in their own social insurance system which is not integrated in the public pension system or are retired.

For taxpayers who obtain income from an association with a legal entity – a micro enterprise which does not generate a legal entity or income from unincorporated associations set up between resident individuals and Romanian legal entities – for income obtained in Romania or abroad, the income payers only calculate and withhold the individual social health insurance contribution (CASS, 5.5%).

The monthly base for calculation of CASS is the income generated from association.

Other remarks

In the above mentioned cases, income payers do not withhold and calculate individual social contributions (CAS and CASS) for income beneficiaries who perform business activities independently or perform liberal professions and are fiscally registered according to applicable legislation.

Starting 1 September 2012, in case of income beneficiaries who only generated income from the previously mentioned activities, the amount for calculation of CASS is gross income and not the amount of RON 700 which, for the 1 July 2012 – 31 August 2012 period, represented the minimum base amount for calculating CASS, in case income generated was less than RON 700.

Adjustment to the contribution paid will be carried out by the fiscal authorities in the year following submission of informative statements by income payers and after database consolidation.

Fiscal obligations
for payers of
income subject to
withholding tax



In the cases presented, income payers shall withhold and transfer the individual social contributions by the 25th, inclusive, of the month following income payment and, respectively, the month following the quarter when the income was paid (term of the period set out in the entity's fiscal vector report).

Source: DGFP Vâlcea

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 September 2012:

1 EUR = 4.5331 RON; 1 USD = 3.5029 RON; 1 CHF = 3.7478 RON; 1 GBP = 5.6813 RON.

OCTOBER 2012 – 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/ amendment 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. In case a written contract is not concluded, documents which support the actual provision of services in Romania (statements of work, commissioning minutes, activity reports, feasibility studies, market studies, any other supporting documents) are registered with tax authorities
- 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 organize a stock count of inventories if the enterprise does not use a perpetual inventory system
- To issue final invoices for the month of October 2012

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 Monday 1 October is the last day to submit

- Application for VAT refund for taxable entities established in Romania as per article 147² point 2) of the Fiscal Code (form 318)
- Application for VAT refund for taxable entities which are not registered in the scope of VAT in Romania and are established outside the European Economic Community (EEC) (form 313).

That Monday 1 October is the last day to pay:

- Local taxes on land, construction, means of transport and the tax on advertising billboards (Installment II and final for 2012).

That Friday 5 October is the last day to submit

- Form 092 (amendments) to change VAT return periods from Quarterly to Monthly for EU acquisition of goods in September 2012. Starting October, the VAT return will be submitted monthly.

That Wednesday 10 October is the last day to submit

- Return on collection of hotel tax
- Return for mentions (amendments) or deregistration under the scope of VAT in case of entities registered under the scope of VAT as per article 153 of the Fiscal Code which, during the previous year, do not exceed the exemption threshold set at article 152 of the Fiscal Code (form 096).

That Wednesday 10 October is the last day to pay

- Hotel tax
- Advertising service tax

That Monday 15 October is the last day to submit

- INTRASTAT statement for September 2012 (standard or extended submitted on-line)
- Statements of acquisitions and supplies in the field of energy in September 2012.



**Do not forget
submission and
payment deadlines!**



That Monday 22 October is the last day to submit

- Special VAT return (**form 301**)* for Quarter III 2012 for taxable entities which are not established and render electronic services to non-taxable persons

That Thursday 25 October is the last day to submit

- The notification to the fiscal authorities showing that turnover registered during 1 October 2011 – 30 September 2012, inclusive, does not exceed the RON 2,250,000 threshold (in order to apply the VAT cash accounting scheme starting 1 January 2013)
- State budget liability return (**form 100**)*
- Return regarding social contributions, income tax and nominative list of insured persons (**form 112**)*
- VAT return (**form 300**)*
- Special VAT return for VAT non payers (**form 301**)*
- Recapitulative statement of EU Supply/acquisitions/services (**form 390**)* for September 2012
- Informative Statement on domestic supply/services rendered and acquisitions regarding September 2012 (**form 394**)*
- Statement regarding amounts deriving from VAT adjustments (**form 307**)
- VAT return regarding VAT due by taxable entities where registration code under the scope of VAT was cancelled as per article 153 point (9) letters a)-e) of the Fiscal Code (**form 311**)
- Statement of salary 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**)
- Statement to determine the tax representing a quarterly advance payment on tax on net annual taxable gains for gains realized during Quarter III 2012 upon disposal of securities other than shares and securities of closed companies (**form 225**)
- Statement of allocation between associates of income and expenses pertaining to Quarter III 2012 (**form 104** to be submitted by associations which are not legal entities and formed between taxpayers as set at article 13 letters c) and e) of the Fiscal Code)
- Environment Fund Statement ("ecotax" included)

That Thursday 25 October is the last day to pay

- Excise taxes
- VAT
- Liabilities to the sole bank account – **State Budget**
 - o **Tax on profit for Quarter III 2012**
 - o **Tax on micro enterprise revenue Quarter III 2012**
 - o Tax on crude oil and natural gas from domestic production
 - o Withholding tax on non-resident income
 - o Income tax on salary (*separate bank transfer for headquarters and each secondary establishment*)
 - o Tax on income from independent activities, withheld at source
 - o Tax on dividends paid in September 2012
 - 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)

IMPORTANT

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 (*) may 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.



Important!
25 October
 deadline to submit
 the notification to
 apply the new VAT
 cash accounting
 scheme in 2013



KEY HR FIGURES

2012 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 2,117 = RON 10,585) 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) ³	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 700) for every 100 employees	
Minimum monthly gross salary as per Government Decision 1225/2011	RON 700	
Luncheon voucher - employee subject to salary starting March 2011	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 allowances. 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 allowances. 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: The contribution to fund to guarantee payment of salary liabilities is also to be calculated upon health insurance allowances but only in respect of the first 5 days of temporary incapacity of work supported by the employer as well as upon allowances for temporary incapacity of work further to a work accident or occupational disease but only in respect of the first 3 days of temporary incapacity of work supported by the employer.

Be Aware! 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.

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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.

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- Assistance in implementation of ERP*
- Training*