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ORDER 2986 dated 9 September 2013 to amend point 1 of annex no. 2 of the Order of ANAF President no. 3596/2011 on declaration of supplies/provision of services and on acquisitions made within the national territory by taxpayers registered under the scope of VAT and to approve template and content of informative declaration regarding domestic supplies/provision of services and domestic acquisitions made by taxpayers registered under the scope of VAT (Official Gazette 582/2013)

The Order provides that the fiscal bills which fulfill the requirements of a simplified invoice are no longer temporarily reported in the form 394. The provisions apply to transactions carried out in Romania starting August 2013 through 31 December 2014.

ORDINANCE 28 dated 27 August 2013 to establish certain financial and budgetary measures (Official Gazette 553/2013)

The Ordinance amends the Fiscal Code and Fiscal Procedure Code. We mention the main changes below:

VAT

The Ordinance includes several amendments and complements on defining the taxpayer categories dealing with the purchase-resale of electric energy subject to reverse charge treatment for VAT purposes:

- Taxable entities established in Romania and holding a license as an energy market operator issued by ANRE (Romanian Energy Regulatory Authority) for next day market transactions and intra-day market transactions;
- The taxable entity established in Romania must meet both of the following conditions:
 - o holds a valid license for electric energy supply, issued by ANRE; and
 - o has as its main activity the resale of purchased electric energy and its own consumption is negligible. In this respect, the taxable entity will submit each year, by 10th December, a statement under own responsibility confirming the fulfillment of this condition to the competent tax authority.

The notion of negligible own consumption of electric energy is defined as the consumption of less than 1% of electric energy purchased during the January-November period of each calendar year.

The Ordinance also amends the chapter on excise taxes. The new provisions came into force on 1st September 2013.

Fiscal Procedure Code

The Ordinance provides, by exception, the possibility to pay taxes and contributions owed by individuals for income obtained from agricultural activities in cash, with the administrative-territorial unit corresponding to the taxpayer's fiscal domicile, only if there is no ANAF unit in the area.

INSTRUCTION 408436 dated 2 September 2013 on unitary application of fiscal provisions related to VAT, introduced by Government Ordinance 16/2013 and Government Ordinance 28/2013

The Instruction was issued by the Ministry of Public Finance and brings further clarifications regarding VAT reverse charge treatment for electric energy delivery, transfer of green certificates, and the reduced VAT rate for bread and baked products.

For baked products, the reduced VAT rate of 9% is applied throughout the entire commercial chain, by both producers and retailers/traders, taxable entities registered under the scope of VAT, according to article 153 of the Fiscal Code, for products falling within the categories provided by article 140, para. (2), letter g) of the Fiscal Code as amended by Government Ordinance 16/2013.

Regarding Triticum Spelta/spelt, common wheat and rye, grain categories for which 9% VAT rate is applicable for domestic deliveries, provided by article 140, para. (2), letter g), point 3 of the Fiscal Code, they are subject to VAT reverse charge under provisions of article 160, para. (2), letter c) of the Fiscal Code. Therefore, if both the supplier and beneficiary are taxable entities registered in Romania under the scope of VAT according to article 153 of the Fiscal Code, then the reverse charge is applied. That is, the beneficiary determines the related VAT, both as output VAT and input VAT which is deductible, by applying the VAT rate of 9%.

The reverse charge does not apply if the beneficiary is not registered under the scope of VAT as provided by article 153 of the Fiscal Code, the supplier (taxable entity registered in Romania under the scope of VAT according to article 153 of the Fiscal Code) collecting the VAT by applying the reduced VAT rate of 9% for domestic deliveries of this type of products.

The Instruction also brings clarifications regarding the CAEN (NACE) codes of grain categories for which the reduced VAT rate is applied.

The entire text of the instruction may be accessed at the following link:

http://discutii.mfinante.ro/static/10/Mfp/infotva/Circulara408436_paine_energie.pdf

ORDER 1479 / 539 / 225 dated 2 September 2013 regarding classification of computer software creation activities

Three common orders of the Minister of Labour, Family, Social Protection and Elderly, the Minister for Information Society and the Minister of Public Finances regarding the classification of computer software creation were published.

We mention the main new provisions below:

- The update of CAEN (NACE) codes related to computer software creation activities included in the registered activity of economic operators which may apply the exemption from income tax according to article 55, para. (4), letter l) of the Fiscal Code. Therefore, the employees of economic operators which are operating/performing on Romania's territory and their object of activity includes computer software creation (CAEN codes 5821, 5829, 6201, 6202, 6209) as well as employees of public legal entities, benefit from being exempt from paying income taxes;
- An amendment to the provision regarding duration of studies completed by the taxpayer eligible for income tax exemption has been added. Employees holding a diploma upon completion of a form of long-term higher education or completing cycle I undergraduate studies benefit from exemption from income tax;
- The list of supporting documents has been updated for classifying employees for income tax exemption in accordance with article 55, para. (4), letter l) of the Fiscal Code;
- The provision requiring monthly submission of separate payroll reports for tax exempt employees to territorial labour inspectorates has been removed;
- A new statement has been introduced, according to which the tax exemption is applied regardless of when the beneficiary's employment began and it is not conditioned by his/her contribution reaching the minimum income level provided by the Order;
- The list of specialties provided by the annex to the Order will be updated regularly, and approved by Government Decision, in line with changes in the nomenclature of certified or licensed university studies and programmes;
- The list of specialties for which graduates benefit from the income tax exemption has been updated and provided by the annex to the Order.

EMERGENCY ORDINANCE 88 dated 18 September 2013 regarding the adoption of certain fiscal and budgetary measures in order to achieve various commitments concluded with international organizations, and for amending and supplementing legal provisions for certain taxes (Official Gazette 593/2013)

The Ordinance adds certain supplements to the Fiscal Code which are effective 1st January 2014.

Thus, the taxpayer obtaining taxable income through transfer of the right to use property must pay social health insurance contributions (CASS) for that income, regardless of their status, whether or not they are insured in the system. Currently, only those who do not have the status of insured must pay this contribution.

Taxation Base

The monthly CASS taxation base for taxpayers obtaining taxable income through transfer of the right to use property, other than those obtained from rental of agricultural land under the withholding tax regime, is:

- The difference between gross income and fixed deductible expenses representing 25% of gross income;
- The difference between total collected income and expenses incurred in order to obtain this income, excluding expenses for social contributions;
- The annual quota income allocated over 12 months.

For those who obtain income from rental of agricultural land using the withholding tax regime, the taxation base is the difference between the gross income and deductible expense set at 25% of gross income.

The monthly taxation base for CASS cannot be:

- Less than minimum gross salary, if this income alone is the taxation base for which the contribution is calculated;
- More than 5 times the value of average gross salary.

In setting the annual income tax obligation, the contribution (CASS) due during the fiscal year is deducted from income obtained from transfer of the right to use property only by the competent tax authority which has the obligation to recalculate the taxable base in order to grant the deduction and to determine annual income tax.

For taxpayers who obtain income from transfer of the right to use property, the allocation of the monthly taxation base at the maximum level (5 times average gross salary) is made by the tax authority in charge by means of a taxation decision. For taxpayers who obtain income from rental of agricultural land using the withholding tax regime, the allocation at the maximum level is made by the income payer at the payment date.

In case of taxation on a real basis (taxpayers who obtain income from rental of agricultural land), the annual obligation to pay the CASS contribution is established on the basis of the annual income statement,



Health insurance contribution is due for rental income starting with 1 January 2014



by applying 5.5% to the taxation base, and the taxation base of the CASS contribution will be disclosed on the monthly taxation decision.

Payment

The CASS contribution for taxpayers who obtain income through transfer of the right to use property (except for tourism) is payable quarterly in four equal instalments, by the 25th of the final month of each quarter.

The CASS contribution for taxpayers who obtain income from renting rooms located on their personal property, with an accommodation capacity for tourism between 1 and 5 rooms, taxed on the basis of quota income or on the optional real basis, as well as those renting more than 5 rooms located on personal property, is payable in two equal instalments by the 25th of July and by the 25th of November.

The CASS contribution is also due by those who obtain income from rental of agricultural land subject to withholding tax regime. The obligation to calculate, withhold and pay the amounts due by the 25th of the month following the month when the income was received is owed by the payer of the income.

The procedure for implementing provisions regarding the re-calculation of income obtained through transfer of the right to use property is established by order of the President of ANAF.



ORDINANCE 31 dated 27 August 2013 amending and complementing Government Emergency Ordinance 196/2005 regarding the Environmental Fund (Official Gazette 553/2013)

The Ordinance amends legislation regarding the Environmental Fund, the most important changes being related to contributions for packaging and oil.

Clarifications are made regarding taxpayers responsible for introducing packaging on the national market to include economic operators who lease packaging, in any way, on a professional basis.

The target for packaging waste management is maintained for 2014.

As of 1st January 2014, the fee calculation and reporting for oil will change as follows:

- An increased, one-time fee of 0.3 lei/per kg will be applied for quantities of mineral, semi-synthetic, synthetic oil, with or without additives;
- The fee must be paid monthly by the economic operators which introduce such products on the national/domestic market and will be distinctly reported on sales documents;
- The 2013 management objective established for oil representing 80% of the total quantity introduced onto the national market will be abrogated.

ORDER 1504 dated 4 September 2013 establishing the model for the statement of assets and income, as well as elements of assets and income, to be declared by individuals subject to personal tax status inspections (Official Gazette 578/2013)

The Order establishes the model for the statement of assets and income, as well as detailed asset and income information, to be declared by individuals subject to personal tax status inspections, in accordance with provisions of article 109[^]1, para. 5[^]1 of the Fiscal Procedure Code.

Personal tax status means all rights and obligations of an ownership (patrimony) nature, cash flow and any other relevant items to establish the real fiscal status of the individual under inspection.

The inspection consists of comparing, on one hand, income declared by the taxpayer or those who pay their income and, on the other hand, the taxpayer's personal fiscal status.

According to provisions of the Order, items of patrimony to be declared by individuals subject to personal tax status inspections are the following:

- Real estate: land, buildings, other immovable property;
- Movable property: means of transportation (land/naval/air) licensed/registered according to the law; goods such as precious metals, jewelry, art and religious items, art and numismatic collections, antiquities, objects belonging to national or universal cultural patrimony, whose total purchase value exceeds RON 15,000; animals, including thoroughbreds or animals participating in competitions/races, whose total value exceeds RON 15,000;
- Financial assets: bank accounts and deposits, investment funds, equivalent forms of savings and investments; investments, direct investments and loans;
- Other assets, securities and/or holdings whose individual value exceeds RON 10,000;
- Insurance policies, except for civil liability car insurance;
- Expenses: personal expenses, expenses for persons supported by the individual subject to inspection;
- Debts.

Items of patrimony are declared for each category, regardless of location or realization, domestic or abroad.

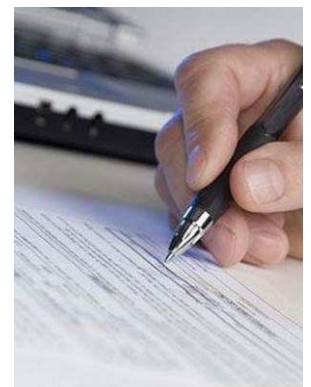
The income elements to be declared by individuals subject to personal tax status inspections are the following:

- Income for which tax is retained at source;
- Non-taxable income;
- Exempt income, according to the law.

The income elements are declared for each category and source of income, regardless of whether they originate domestically or abroad.

Source: DGFP Vâlcea

The statement of assets and income should be filled at the request of fiscal authorities to check the natural persons fiscal status



ORDINANCE 2211 dated 19 August 2013 to approve territorial administration competence (Official Gazette 554/2013)

The Order approves ANAF territorial administration competence for taxpayers, except for large and medium size taxpayers, and lists ANAF territorial administrative units and the subordinated localities.

ORDER 1520 dated 9 September 2013 to approve Procedure for application of Article V of the Government Emergency Ordinance 50/2013 regarding certain fiscal measures (Official Gazette 583/2013)

The Order approves the procedure for granting instalment payments to economic operators that register certain liquid and receivables owed by authorities which manage European funds, based on financing agreements concluded. This Order complements Government Emergency Ordinance 50/2013 regarding the establishment of certain fiscal measures, which was presented in APEX Team Newsletter no. 6, 2013.



INFORMATION - Reduced VAT rate for restaurants and catering units does not apply

According to provisions of point 14² of Implementation Norms of Title VI of Law 571/2003 regarding the Fiscal Code, approved by GD 44/2004 with subsequent amendments and complements, both restaurant services and catering services are characterized by a complex series of activities in which service is predominant, and the provision/supply of food and/or beverages is just a component. Restaurant services consist of providing prepared or unprepared food and/or beverages for human consumption at the provider's location, or unprepared food and/or beverages for human consumption, along with sufficient services to allow for immediate consumption. Catering services consist of the same activities but are not carried out at the provider's location.

Similar provisions are found in European Council Regulation 282/2011 dated 15 March 2011 regarding application of measures taken for implementing Directive 2006/112/CE regarding the common VAT regime. Thus, article 6 of EC Regulation 282/2011 stipulates that restaurant and catering services consist of providing food and/or beverages, prepared or unprepared, destined for human consumption, along with sufficient associated services to allow their immediate consumption. Providing food and/or beverages is only one component of the whole in which services predominate. Restaurant services consist of the provision of such services on provider's premises and catering services consist of the provision of such services other than at the premises of the supplier.

Important! The provision of food and/or beverages, prepared or unprepared, with or without transport, but excluding any other related service are not considered restaurant or catering services.

As reflected by provisions of Implementation Norms of the Fiscal Code and those of EC Regulation 282/2011, the supply of food (for example bread or baked products) is only one element of restaurant and catering services.

Given the above, the 9% VAT rate applied for deliveries of bread and baked products starting 1 September 2013 is not a factor which should influence the VAT rate applicable to restaurant and catering services. The VAT rate for restaurant and catering services was not reduced, and the 24% VAT rate continues to be applied, even in the case in which the services include the supply of bread and baked products. Even though elements of service are disclosed separately (and may include bread or baked products) on invoices and on fiscal bills issued to clients for restaurant or catering services, the standard VAT rate of 24% will continue to be applied for the provision of services, and implicitly, for all their elements.

Source: DGFP Vâlcea

INFORMATION – Form 311

Obligation to complete and submit

Form 311, "VAT return for taxable entities whose registration code under the scope of VAT has been cancelled as per Article 153, para. (9), letters a) - e) or g) of the Fiscal Code" should be completed and submitted by:

- Taxable entities, in accordance with article 156³, para. (10), letter a) of the Fiscal Code, whose code under the scope of VAT was cancelled, ex-officio, according to provisions of article 153, para. (9), letters a)-e) of the Fiscal Code, and which, after cancellation of registration under the scope of VAT, carried out the supply of goods/provision of services and/or purchase of goods and/or services, and are obliged to pay VAT, because there is a liability to pay collected VAT according to provisions of article 11, para. (11) and (13) of the Fiscal Code
- Taxable entities, in accordance with article 156³, para. (10), letter a) of the Fiscal Code in conjunction with point 801, para. (2) of Implementation Norms of Title VI of the Fiscal Code, which qualified for situations mentioned in article 11 para. (11) and (13) of the Fiscal Code and whose registration under the scope of VAT was cancelled, ex-officio, according to provisions of article 153, para. (9), letters a)-e) of the Fiscal Code and, after cancellation of the registration under the scope of VAT, supply goods through enforcement bodies
- Taxable entities, in accordance with article 156³, para. (10), letter b) of the Fiscal Code, which applied the VAT cash accounting scheme and whose code under the scope of VAT was cancelled, ex-officio, according to provisions of article 153, para. (9), letters a)-e) of the Fiscal Code, carried out the supply of goods/provision of services prior to cancellation of the registration under the scope of VAT, but whose chargeability, according to the VAT cash accounting scheme provided in article 134², para. (3)-(8) of the Fiscal Code, occurred during the period when the taxable entities did not have a valid VAT code.



The VAT reduced rate is not applicable to bakery products provided by restaurants and catering units

REMINDER – Valuation of monetary items in foreign currency

The September closing NBR exchange rates to use for valuation of monetary items (cash on hand, receivables, payables) denominated in foreign currency, as well as receivables and payables denominated in RON but pegged to a foreign currency for collection/disbursement are:

1 EUR = 4.4604 RON; 1 CHF = 3.6505 RON; 1 GBP = 5.3360 RON; 1 USD = 3.3051 RON.

OCTOBER 2013 – 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 document 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 organise a stock count of inventories if the enterprise does not use a perpetual inventory system
- To issue final invoices for the month of October 2013

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 7 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 2013. Starting October, the VAT return will be submitted monthly.

That Thursday 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 Thursday 10 October is the last day to pay

- Hotel tax
- Advertising service tax

That Tuesday 15 October is the last day to submit

- INTRASTAT statement for September 2013 (standard or extended submitted on-line)
- Statements of acquisitions and supplies in the field of energy in September 2013.

That Friday 25 October is the last day to submit

- State budget liability return (form 100)*
- Return regarding social contributions, income tax and nominative list of insured persons (form 112)*
- VAT return (form 300)*
- Special VAT return for VAT non payers (form 301)*
- Statement regarding amounts deriving from VAT adjustments (form 307)
- VAT return regarding VAT due by taxable entities which registration code under the scope of VAT was cancelled as per article 153 point (9) letters a)-e) of the Fiscal Code (form 311)
- Recapitulative statement of EU Supply/acquisitions/services (form 390)* for September 2013
- Informative Statement on domestic supply/services rendered and acquisitions regarding September 2013 (form 394)*
- 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 of allocation between associates of income and expenses pertaining to Quarter III 2013 (**form 104** to be submitted by associations which are not legal entities and formed between



Do not forget the deadlines to submit tax returns



taxpayers as set at article 13 letters c) and e) of the Fiscal Code)

- Reimbursement request for excise taxes by importers for the previous quarter
- Reimbursement request of excise taxes for distance sales for the previous quarter
- Environment Fund Statement (including "ecotax")

That Friday 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 2013** (advance payment system or actual system)
 - o **Tax on micro enterprise revenue for Quarter III 2013**
 - 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 2013
 - 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
- advance payment of 50% of the income tax and contribution to the health insurance on the income from agricultural activities (first installment) by taxpayers who obtain income from agricultural activities
- Contribution to Environment Fund ("ecotax" included)

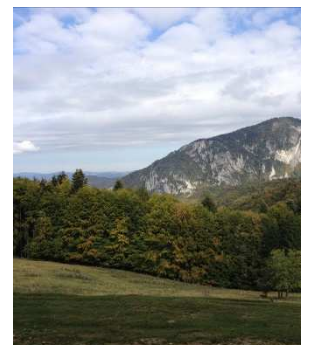


**Do not forget the
deadlines to pay
taxes and
contributions**

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.



KEY HR FIGURES

2013 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 2,223 = RON 11,115) 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 800) for every 100 employees	
Minimum monthly gross salary as per Government Decision 23/2013	RON 800 (starting 1 July, 2013)	
Luncheon voucher - employee subject to salary tax starting May 2013	RON 9.35	
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 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 the fund to guarantee payment of salary liabilities is also to be calculated for health insurance allowances but only in respect of the first 5 days of temporary incapacity to work supported by the employer as well as for allowances for temporary incapacity to work further to a work accident or occupational disease but only in respect of the first 3 days of temporary incapacity to 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 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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***Our Mission:
Adding Value to Client's Business***

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 »
- Consulting and assistance in drafting transfer price files
- Start up services
- Organization of the accounting function
- Assistance in implementation of ERP
- Training

Servicii integrate pentru întreprinderi
în anul 2013
categoria societăți mari
SC APEX TEAM INTERNATIONAL SRL