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LAW no 218 dated 17 November 2016 to modify and complement Article 3 point (1) of Law no. 142/1998 on granting meal tickets (Official Gazette 931/2016)

The Law amends regulations regarding value of meal vouchers granted to employees. The law introduces the concept of an upper maximum value for a voucher being set at RON 15. Prior to these amendments the face value of a meal voucher was a fixed value, updated bi-annually by the Government.

The variable value of meal vouchers will be awarded at the discretion of employers. Conditions to grant meal vouchers remain unchanged. We recall that meal vouchers may be provided in paper form on printed tickets with fixed nominal values or in electronic format through cards similar to bank cards. The latter becomes more flexible when assigning different values to electronic meal vouchers. In addition, the electronic version allows usage of partial values of meal vouchers.

ORDER 3386 dated 17 November 2016 to approve form and content of tax return 101 - "Statement regarding tax on profit" and 120 - "Statement regarding excise taxes" (Official Gazette 950/2016)

The Order updates the form and content of the following forms:

- 101 - "Statement regarding tax on profit";
- 120 - "Statement regarding the excise taxes".

The forms are updated for new provisions of the Fiscal Code and are applicable starting with 2016 annual tax returns.

The submission deadlines for form 101 are:

- 25 February 2017 for non-profit organizations and taxpayers obtaining most of their income from agricultural activities related to cereal and industrial plants, growing fruit and viticulture;
- 25 March 2017 for other taxpayers.

In case of entities that opted for a fiscal year different than the calendar year, the submission deadline is the 25th day of the second or third month which follows closure of the financial year, depending on the two categories mentioned above.

In case of taxpayers entering into liquidation/dissolution/de-registration, the deadline for submission of form 101 is up to the submission of the liquidation financial statements. Permanent establishments opened in Romania by foreign entities follow the same rules on submission of profit tax returns.

The deadline for submission of form 120 is by 30th of April of the year which follows the reporting year. The form is only submitted by economic operators which have the quality of excise tax payer, specifically those who carry out trade with excisable harmonized products and excisable non-harmonized products.

DECISION 877 dated 23 November 2016 to modify and complement Government Decision 500/2011 on General Registry of Employees and the unitary application of some legal provisions (Official Gazette 963/2016)

The Decision amends GD 500/2011 regarding the General Registry of Employees, a register dedicated to the public sector being introduced in which persons who are paid from public funds, who exercise a function under the base of an individual labour contract, an administrative act of appointment or "another kind of act issued under legal conditions" must be registered. According to new regulations, the institutions/public

authorities will report salary information in REGES.

Basically, the General Registry of Employees is composed of two parts:

- Private register in which labour contracts are registered, prepared according to Labour Code - Law 53/2003 - by private employers;
- Public register which is updated by public institutions/authorities to whom provisions of Law 284/2010 on unitary remuneration of the personal paid from public funds apply.



The main items that are declared in REGES are: employee identification data, employment date, occupation, labour contract type, work time and its distribution, salary and any additional benefits.

Reporting deadlines in REGES remain the same:

- Hiring a new employee - one work day before commencement of work contract, at the latest;
- Termination of a work contract - the termination date, at the latest;
- Suspension of work contract - maximum 20 work days from suspension date/return date;
- Detachment - one work day before detachment begins, at the latest.

Any change in employer headquarters/fiscal domicile should be communicated to Labour Territorial Inspectorate within 3 working days from occurrence of the change.

Other information:

- Employers will prepare a personal/professional file for each employee or each person paid from public funds;
- When the work contract is terminated, employers must issue a certificate to attest the activity carried out, time period of activity, salary and length of service for the employee;
- Upon written request of an employee or a former employee, employers have the duty to issue an extract from the general registry of employees within a maximum 15 days from request date;
- Any person may request information in the General Registry of Employees from the Labour Territorial Inspectorate and this institution must provide the information within 5 days;
- The following contraventions are punished by a fine:
 - o Failure to report information on work contracts to REGES is sanctioned by a fine of RON 10,000 to 20,000 for each individual case
 - o Employer's refusal to issue documents requested by the employee is sanctioned by a fine of RON 300 to 3,000.

Changes to the General Registry of Employees

ORDER 3140 dated the 31 October 2016 to approve Fiscal registration procedure for non-residents who carry out activity in Romania through one or several permanent establishments, as well as the template and content of the Form 013 - "Fiscal registration statement/Update statement/De-registration statement for non-residents taxpayers who carry out activity in Romania through one or several permanent establishments" (Official Gazette 893/2016)



The Order approves the Fiscal registration procedure for non-residents who carry out activity in Romania through one or several permanent establishments as well as the template and content of Form 013, "Fiscal registration statement/Update statement/De-registration statement for non-residents taxpayers who carry out activity in Romania through one or several permanent establishments".

We recall the fact that foreign legal entities who registered one or several permanent establishments in Romania will designate one of the permanent establishments for accomplishing fiscal duties. The designated permanent establishment must be fiscally registered with fiscal authorities (ANAF), a registration that is accomplished through the form 013 which has been updated by the present order.

The initial registration form must be submitted within 30 days of the date when the permanent establishment is created and any subsequent changes must be declared to ANAF within 15 days of occurrence.

LAW no. 220 dated 17 November 2016 to amend and complement para. (1) of article 139 of Law no. 53/2003 - Labour Code (Official Gazette 931/2016)

The Law adds a new public holiday, the 1st of June - Children's Day to the Labour Code. Thus, the updated list of non-working days is:

- ☑ 1st and 2nd of January;
- ☑ 24th of January – day of the Unification of the Romanian Principalities.
- ☑ First and second day of Easter;
- ☑ 1st of May;
- ☑ 1st of June;
- ☑ First and second day of Pentecost;
- ☑ 15th of August – the Assumption;
- ☑ 30th of November – Saint Andrew's Day;
- ☑ 1st of December;
- ☑ First and second day of Christmas;
- ☑ Two days for each of the 3 annual religious celebrations, declared by legal religions, other than Christian, for persons abiding by these faiths.



LAW no. 204 dated 7 November 2016 to ratify Agreement between Romania and Hong Kong Special Administrative Region of Popular Republic of China to avoid double taxation and to prevent tax evasion regarding tax on income, signed in Bucharest on 18 November 2015 (Official Gazette 922/2016)

The Law ratifies the Agreement between Romania and Hong Kong Special Administrative Region of Popular Republic of China to avoid double taxation and to prevent tax evasion regarding the tax on income, agreement which comes into force starting the 1st of January 2017.

We remind that Hong Kong is a special administrative region which is autonomous in signing international conventions on avoiding double taxation. The convention already existent between Romania and China was not applicable for commercial relations with Hong Kong.

The main tax rates set by this convention are:

- ☑ Dividends - 3% (in case of 15% minimum holding) or 5%
- ☑ Royalties - 3%
- ☑ Interests – 3%.

**A new double tax
avoidance
treatment between
Romania and Hong
Kong**

ORDER 3006 dated 21 October 2016 on approving Procedure of implementation and administration of a sole fiscal group and also to approve form and content of several forms (Official Gazette 894/2016)

The Order updates the procedure of implementation and administration of a sole fiscal group and also the required forms.

Fiscal group allows for more taxable entities, legally independent, but connected from an economic and organizational point of view, to be treated by fiscal authorities as a single fiscal group from VAT perspective.

It is considered to be a financial, economic and organizational link between taxable persons participating in the group if one or more of the associates/shareholders holds, directly or indirectly, more than 50% of share capital of entities who are part of the sole fiscal group.

The fiscal group can be established by a minimum of 2 taxable entities and should be maintained for at least 2 years. The mandatory condition is that all entities which are part of the group have the same fiscal period.

The deadline for settling the registration request for a fiscal group is 60 days from the receipt of complete documentation.

One of the members is designated to represent the group in its relations with fiscal authorities. Each group member completes the VAT return for its own operations and sends it to the group representative, in order to prepare the consolidated VAT return. In this way, the normal VAT return form is used to which information regarding operations carried out by all members is added.



ORDER 2809 dated 29 September 2016 to approve Procedure for settling VAT reimbursement claims submitted by non-residents taxpayers, residents of another EU state (Official Gazette 868/2016)

The Order updates the Procedure for settling VAT reimbursement claims submitted by non-residents taxpayers who are residents of another EU State, and also updates the required forms by reference to the new Fiscal Code.

We remind that the reimbursement claim must be submitted within the deadline set by internal legislation of the State, but no later than 30 September of the following year. In this context, the reimbursement claims may be submitted both quarterly and bi-annually. Settlement terms for reimbursement claims are:

- 4 months from date of receipt of reimbursement unless additional information is requested;
- If additional information is requested, the analysis period is extended by 2 months but not to exceed total of 6 months.

If the tax authority has requested additional information but has only received partial information, and it requests other additional information, the deadline is extended to 8 months.

If the request is approved, reimbursement shall be made within 10 days. If the refund application is rejected, an appeal against it may be filed within 45 days.

LAW 209 dated 9 November 2016 to modify and complement the Emergency Ordinance 193/2002 on introducing modern payment systems (Official Gazette 913/2016)

Starting the 1st of January 2017, legal entities which carry out retail activities and which have recorded annual turnover of more than 10.000 EUR are requested to accept collections by debit or credit card.

The Law allows merchants to grant cash advances to clients using the bank cards. The condition is that an agreement must be signed between the merchant and the financial institution and the advance granted may not exceed RON 200. Basically, the merchant takes a minor role of an ATM: it may release cash to the customer, but the fee requested cannot exceed 1% of the amount granted.

In terms of cash, if the merchant does not have enough cash available to cover the client's request, then only the amount available may be granted.

Banks which accept cards are required to install terminals for payment (POS) within 30 days from the request. Operators granting advances should display a visible sign regarding cash granting facility and the commission fee.

Failure to implement card collection systems by eligible operators represents a contravention that is penalised by fine, amounting to RON 5,000 to 7,500. Refusal by a bank to install POS terminals is considered a contravention and is penalised with a fine amounting to RON 20,000 to 50,000.

Law enforcement rules should be issued by the Ministry of Finance within 30 days.

ORDER 3396 dated 18 November 2016 to approve form and content of "Income Record" and "Request to issue an income record" forms (Official Gazette 954/2016)

The Order approves the form and content of the following:

- "Income record";
- "Request to issue an income record".

The "Income record" form represents a document which attests to income realised by individuals during a fiscal year, income which exists in fiscal records based on tax returns submitted by individuals and/or by third parties (income payers, intermediaries, etc.) who have declarative obligations according to the law.

Income records are issued by the central fiscal authority, on the basis of receiving a "Request to issue an income record" form.

Income records contain data regarding income obtained during a fiscal year, which exists in fiscal records at the moment when the request is filed. If no information exists for the reference period at the time of request, the income record is prepared with estimated income taken into consideration to set tax payments.



Acceptance of debit or credit card payments become mandatory for some categories of merchants



LAW no. 217 dated 17 November 2016 on reducing food waste (Official Gazette 934/2016)

The Law introduces measures to reduce food waste. Wasting food means that food exits the human consumption cycle due to degradation, and is destroyed as required by law. Operators in the food industry are obliged to take measures to prevent the waste of food, by establishing a production/distribution chain of with various stages, such as: accountability measures, sale at reduced prices, donations and sponsorships, transformation of products that are not decent for human or animal consumption into compost or bio-gas etc.

The law also allows economic operators in the food sector to sell food near expiration date to associations, foundations and social enterprises for a maximum of 3% + VAT of the purchase price (for merchants/retailers), and 3 % + VAT of the price of production for producers and processors. These products may be sold by associations and foundations for a maximum of 25% + VAT of purchase price/production, if purchased from traders/manufacturers under terms of this Order.

The law enters into force six months after publication, by which time implementation rules should have been developed by the Ministry of Agriculture and Rural Development.

ORDER 2082 dated 28 October 2016 to approve the form and content of forms used for fiscal inspection activity (Official Gazette 930/2016)

The Order approves procedures and forms used for tax audits carried out by the Environment Fund Administration.

The minimum time for initiation of a tax audit is 30 days for large taxpayers and 15 days for other taxpayers after the issuance date of the tax audit notification. The notice shall state the period and taxes subject to tax audit.

ORDER 3418 dated 22 November 2016 to amend and complement ANAF's Presidential Order 3.744/2015 to establish special cases of enforcement, as well as authorities in charge of conducting precautionary measures and carrying out enforcement procedures (Official Gazette 960/2016)

ORDER 2901 dated 10 October 2016 to approve Instructions to prepare administrative document in digital form (e-DA) using EMCS-RO application – Control of movements performed under regime of suspension/exemption of excise taxes (Official Gazette 861/2016)

REMINDER – Organization and performance of an inventory of patrimony

Order 2861 dated 9 October 2009 (Official Gazette 704/2009) has established the legal framework, procedures documentation which is prepared at the time of the inventory of the enterprise patrimony.

Companies must issue internal procedures regarding inventory which are approved by the company Director.

Provisions of the present Order apply to persons who obtain income from independent activities and who must as per law organize and maintain simple entry bookkeeping.

In accordance with Accountancy Law 82/1991, republished, companies must perform an inventory of items they hold with the nature of assets, liabilities, equity at inception of activity, at least once during the financial year while carrying out its business, in case of merger or termination of business, as well as in other circumstances.

All elements having the nature of assets are placed under the responsibility of a keeper or are used by employees or company Director(s).

As per Accounting Law, entities which have a financial year different from the calendar year organize and perform an annual inventory in such a manner that the outcome of the inventory is included in the financial statement prepared for the year end that was chosen. In case of stock count in warehouses during the year, the amount of inventory existing at the date of performance is disclosed in the Inventory Register and is mentioned on inventory lists which are updated with the entries and stock releases which occur in the period between the stock count date and year end.



**Newly introduced
measures on
reducing food
waste**



INVENTORY COMMITTEE

The inventory of items having the nature of assets, liabilities and equity is performed by an inventory committee which is appointed by a written resolution of the company Director. In the designation resolution, it is mandatory to indicate the composition of the committee (name of the President and committee members), mode of performance of the inventory, inventory method used, warehouse subject to inventory, as well as inception and completion date of inventory operations. The warehouse keeper in charge of the warehouse subject to inventory, the accountant who tracks inventory for this warehouse, internal auditors and statutory auditors cannot be appointed members of the inventory committee.

In case the entity has no employee, the Director is in charge of performance of the inventory.

ITEMS HELD BY THIRD PARTIES

Inventory lists including items which belong to third parties are transmitted to the natural or legal, Romanian or foreign persons to which the items belong within 15 working days after completion of the inventory so that the owner may communicate any discrepancies within 5 working days starting the date the inventory lists are received.

Lease companies must provide lessees/users with inventory lists regarding items representing the object of the contract. Based on information included on these lists, the leasing company can calculate and register adjustments regarding depreciation of assets or financial assets, if applicable.

In case the lessee/user does not provide inventory lists to the leasing company, the leasing company can record adjustments regarding depreciation of these items on the basis of market prices available at the inventory date, taking into account features of the item which represents the object of the lease (year of manufacture, useful life).

In this respect, entities which hold items must make a stock count and communicate the inventory lists for confirmation, just as the owners of these items must request confirmation of items held by third parties. **Not receiving a confirmation of the existence of items held by third parties does not represent tacit confirmation.**

CONFIRMATION OF BALANCES

Receivable and payable balances are subject to verification and request for confirmation of the closing balances of receivables and payables with significant weight in these accounts using the "Statement of account" form (code 14-6-3) or by written reconciliation. Breach of these procedures as well as refusal to confirm represent an infringement to the present Norms and is punished as per law.

Cash at bank or at State Treasury in the entity books are reconciled with the closing balances as per bank statements. For this purpose, bank statements as at 31 December or the last banking day which will be provided by the banks and State Treasury will bear their official stamp. In case the entity has opted as per provisions of Law 82/1991 republished for a financial year other than the calendar year, information regarding the last day of the chosen financial year will then be taken into account.

INVENTORY LISTS

Each page of the inventory list is signed by the President and inventory committee members, by the warehouse keeper as well as by experts the inventory committee President has asked to participate in the identification of items subject to inventory.

In case the elements having the nature of assets are subject to inventory using electronic methods of identification (for example: bar code reader, etc.), data being directly transmitted into the financial and accounting management system, the inventory lists are issued directly by the IT system. Comprehensive lists are printed with all captions subject to inventory or in a selective manner only for captions for which differences in quantity or in value (depreciation) were found, if applicable. In case the inventory lists are only printed for the unique inventory items for which differences in quantity or in value were found, comprehensive inventory lists are kept in a magnetic format for the legal conservation period of such documents. In this case, the valuation of items to determine eventual adjustments is performed by analysis upon all items subject to inventory and not only upon those for which differences in quantity were found.



Annual inventory count - a hot topic



- ☑ proposals to write off tangible and intangible fixed assets;
- ☑ proposals to withdraw low inventory balances from use and for impairment of or writing off inventory;
- ☑ findings regarding conservation, warehousing, safety, assurance of entirety of items in patrimony as well as other matters related to activities of the warehouses which were subject to inventory.

The proposals comprised in the minutes of the inventory committee are presented to the Director within 7 working days after completion of the physical inventory counts. The Director will decide the measures to be taken, in coordination with the head of the accounting and finance department and the head of the legal department in accordance with legal provisions.

INVENTORY REGISTER

In case the inventory is performed during the year, data resulting from the physical inventory are updated with entries and releases for the period from the date of inventory and the date for closing the financial year, the updated data being noted in the inventory register.

Completing the inventory register is made at the time all balances of all the balance sheet accounts are finalized including those related to corporate tax and adjustments for depreciation or impairment, if any.

The inventory register can be adapted to the specifics and internal requirements under the condition that mandatory minimum information is disclosed.

Results of the inventory must be recorded in the evidence kept for tracking operations within the 7 working days from the date of approval of the minutes of inventory by the Director.

REMINDER – REVALUATION OF LAND AND BUILDINGS

The accounting law does not oblige enterprises to revalue land and buildings every 3 years. From an accounting point of view, the European Directive and implicitly IAS 16 rules apply and there is no provision regarding frequency of revaluation except for indications of changes in fair value.

Revaluation every 3 years is based on the following:

Main resources of local communities are the employee income tax which is withheld by the employer and transferred to the local budget, tax on land (computed as an amount per square meter by category of land) and tax on buildings. This latter tax is a percentage of gross value (not net value) set by local authorities. This percentage is increased if the gross value has remained unchanged for 3 years; in other words, has not been revalued, leading to this concept that a revaluation is to be performed every 3 years. The revaluation must be performed by an appraiser who is a member of ANEVAR (Romanian Association of Valuers) and must be recorded in the books as at 31 December prior to preparation of annual financial statements.

First revaluation in case of an increase in value of the asset is recorded according to one of the following 2 methods:

- ☑ Gross method (for increases in value: Debit "Building" account and Credit account 105 "Revaluation difference" for revaluation of gross value, and simultaneously, depreciation of revaluation difference: Debit account 105 "Revaluation difference" and Credit "Accumulated depreciation").
- ☑ Net method (for increases in value: write off accumulated depreciation first and then Debit "Building" account and Credit account 105 "Revaluation difference" for the change in net value).

Upon the second revaluation, if a loss in value is found, account 105 is reduced first and, if the reduction in fair value is such that account 105 is zero, the additional loss is recognized in the income statement.

Upon the third revaluation, if the fair value has increased, the loss recognized in the income statement at the time of the second revaluation must first be cancelled and the surplus recorded in account 105.

It is emphasized that account 105 cannot be used for increasing the value of share capital.



The results of the inventory count should be recognised in accounting books



Since 2015, revaluation reserve considered as realized (by amortization / sell etc.) is transferred from account 105 to account 1175 "Retained earnings representing the realized revaluation reserve", this account replaces the account 1065.

REMINDER – Valuation of monetary items in foreign currency

The November 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 = 4.5162 RON; 1 CHF = 4.1990 RON; 1 GBP = 5.3110 RON; 1 USD = 4.2616 RON

DECEMBER 2016 – 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 8 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 organize a stock count of inventories if the enterprise does not use a perpetual inventory system
- To issue final invoices for the current month.

To comply with requirements regarding VAT

- Mention the registration code under the scope of VAT on documents for EU business partners
- Check validity of registration code under the scope of VAT mentioned on invoices received
- Check 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 ledger of goods received
- Maintain ledger of non-transfer of goods
- Maintain non-current assets ledger
- Mention which exchange rate will prevail (NBR, commercial bank or Central European Bank) in contracts with foreign partners

To consult the calendar of tax liabilities for December 2016, visit the following link on ANAF webpage (in Romanian):

https://static.anaf.ro/static/10/Anaf/AsistentaContribuabili_r/Calendar/Calendar_obligatii_fiscale_2016.htm#dec



**21 December
the deadline for
payment of
November taxes as
well as the
payment of
advanced profit
tax for quarter 4**



KEY HR FIGURES

2016 Contributions	Employer and Beneficiary of activities considered dependent activities (% rate)	Employee and provider of dependent activities (% rate)
Social security contribution (<i>pension</i>)	15.8% for normal working conditions 20.8% for particular working conditions 25.8% for special working conditions (contribution base capped at an amount representing the average amount of in- sured 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 accord- ing to Budget for public social insurance, i.e. $5 \times 2,681 = \text{RON}$ $13,405$) 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 insur- ance 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 disa- bled persons (for employers with more than 50 employees)	4 x 50% minimum gross salary for every 100 employees	
Minimum monthly gross salary	RON 1250 (starting 1 May 2016)	
Luncheon voucher	Up to maximum RON 15.00	
Per diem (in Romania) Employees in the public sector Employees in the private sector (x 2.5)	RON 17.00 RON 42.50	

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 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 of work supported by the employer.

Be Aware! Income paid to a person who carried out an activity considered dependent activity 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*