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INFO

According to some public information provided by agents of the Minister of Public Finance, the near future will bring important amendments to form 088, used to register under the scope of VAT, as well as a new template for form 394, which should have been applied retroactively starting the 1st of January 2016.

In the case of form 088, the obligation to submit this form is eliminated for companies which change the Director/Manager, shareholders or headquarters. An exception is made in situations where there is a high fiscal risk.

In the case of form 394, the new template will come into force starting the 1st of July, instead of the 1st of April, and it will not be submitted retroactive to the 1st of January 2016.

DECISION 159 dated 11 March 2016 to amend and complement Methodological Norms to apply Law 227/2015 on the Fiscal Code, approved by Government Decision 1/2016 (Official Gazette 208/2016)

The Decision amends/complements Application Norms of the new Fiscal Code.

TAX ON MICRO-ENTERPRISES INCOME

In the case when, during a quarter, the number of employees changes, the tax rate to apply is based on number of employees at the end of the last month of the quarter.

TAX ON INCOME

Complements are made to the assessment of benefits in kind for assets having mixed use: for business and personal purposes. Thus, the principle already introduced in the Fiscal Code starting the 1st of January 2016 is reiterated. An exception to the assessment rule is the advantage obtained from using vehicles for personal use for which the expenses are 50% deductible, these advantages being tax-exempt income for the individual benefiting from personal use of vehicles.

VALUE ADDED TAX

New examples are introduced to explain chargeable events and chargeability under the scope of VAT.

Examples of multiple purpose vouchers are redefined.

A new mandatory component is introduced in relation to both the supplier/provider and beneficiary address which should be mentioned on the invoice. Thus, in the case of taxable entities having the headquarters of their economic activity in Romania, minimum required address information is: **county/district (newly introduced)**, town/locality, street and number. We emphasize that the lack of certain mandatory information on the invoice may affect the right to benefit from VAT deductions.

New clarifications and examples are introduced in the area of simplification measures (reverse charge) for the sale of mobile phones, game consoles and integrated circuit devices. In addition, integrated circuit devices represent goods that are categorized under code NC-8542.

EXCISE DUTIES

Procedures on authorization and restitution of excise duties have been established.

LOCAL TAXES

New regulations are introduced for buildings owned by individuals having non-residential or mixed usage. The authorities wanted to eliminate the confused situation regarding the new system of taxation on buildings according to their usage. Certain



**Tax on buildings
may be paid until
the end of June
2016**

aspects are clarified, but contradictions and confusion remain, and the application of regulations by local tax authorities will generate further confusion and different interpretations. Possible amendments to current provisions are expected.

Starting the 1st of June 2016, local tax authorities will communicate building values reported on evaluation reports submitted by individuals and legal entities to the Ministry of Public Finance, in order to prepare an electronic register containing the value of these properties. The register will be public, posted on the website of the Ministry of Public Finance. The new regulation will raise several issues related to fiscal secrecy and information confidentiality.

The authority having the competence to register means of transportation communicates registration and de-registration of vehicles, if recorded, to territorial administrative units. The communication is performed electronically at least once a year.

The obligation of public local authorities to hold a record of means of transportation by type of acquisition is introduced. In the case of a vehicle lease, the seller should register the sale-purchase contract in the above-mentioned register. In addition, the sale-purchase contract should mention this registration number next to all other minimal sale elements.

It is specified that the minimal elements which are mandatory for a vehicle sale-purchase contract will be provided in a standard form. The contract will always be signed in 5 originals which will be used to both de-registration and registration of the vehicle, and original contract copies will be retained by all parties.

EMERGENCY ORDINANCE 8 dated 23 March 2016 on certain financial measures in order to finalize projects supported by European Union funds related to 2007-2013 programming period, as well as certain fiscal and budgetary measures (Official Gazette 225/2016)

The Ordinance postpones the submission deadline for returns that should be registered with local taxes authorities/units, for both individuals and legal entities, to the 31st of May 2016.

In the case of individuals, the obligation to submit tax returns only refers to those holding the right to ownership of buildings used for non-residential activities or mixed-purpose buildings as of the 31st of December 2015.

In the case of legal entities, tax returns are submitted by all entities holding ownership rights to buildings as of the 31st of December 2015, regardless of their purpose.

The first deadline for payment of tax on buildings, land and means of transportation to the Local Budget is postponed from the 31st of March 2016 to the 30th of June 2016. Complete payment of tax owed for the year of 2016 prior to or on the 30th of June 2016 leads to receipt of a bonus provided by the Local Council for complete payment.

The update of taxes owed to the Local Budget according to inflation rates will be made starting the 1st of January 2017, to set the taxes valid for the year of 2018, using the positive inflation rate in 2016.

ORDER 889 dated 2 March 2016 on Procedure to approve derogatory declaration regime (Official Gazette 203/2016)

The Order approves the new Procedure on the derogatory declaration regime as well as the necessary forms.

The derogatory regime suspends the obligation to submit certain tax returns for a limited period of time and addresses to both legal entities and individuals carrying out independent activities or liberal professions.

What are the cumulative conditions that should be accomplished?

- to not carry out any activity;
- to not obtain income or other elements similar to income;
- to not register employed personnel and
- to not make payments to which withholding is applied;
- all declarative and payment obligations should be fulfilled when the derogatory regime is obtained;
- there are no ongoing VAT reimbursement procedures or claims to recover taxes;
- entity or individual does not represent the subject of a tax inspection;



- ☑ prior to submitting the request, the company is not recorded on the list of inactive taxpayers, except for the case when the company is in temporary inactivity communicated to the Trade Register;
- ☑ the taxpayer has its activity suspended at the Trade Register or, in the case of individuals, by applicable professional organisations.

How to obtain derogatory regime?

A derogatory declaration regime is requested by taxpayers by submitting an application/written request to the fiscal authority where entity/individual is registered as the payer of taxes and contributions.

The application is decided upon by the fiscal authority within 15 days from submission date.

Based on several arguments, the application may also be rejected in the case where the fiscal authority considers that granting a derogatory declaration regime may lead to the appearance of certain tax evasion schemes.

When does derogatory regime end?

The derogatory declaration regime ceases at the end of its validity period:

- ☑ on the date set/approved for its termination;
- ☑ starting the month when one of the conditions to obtain the derogatory regime ceases to be fulfilled;
- ☑ starting the month when, according to law, new declarative obligations on taxes and contributions owed to State Budget by the taxpayer are set.

In the case where the derogatory declaration regime ceases, the taxpayer/payer will return ex-officio to the normal declaration regime. An extension of application period for the derogatory regime is only possible subsequent to approval of a new application for the regime, in compliance with the procedure and conditions.

What tax returns are subject to derogatory declaration regime?

- ☑ Form 100 State Budget liability return
- ☑ Form 101 Corporate tax return
- ☑ Form 112 Return regarding social contributions, income tax and nominative list of insured persons
- ☑ Form 120 Annual excise tax return
- ☑ Form 300 VAT return

DRAFT LAW – COMPENSATION FOR RAISING A CHILD

The draft law which brings a series of substantial amendments to legislation regarding childcare leave and compensation for raising a child was adopted by Parliament immediately prior to publication of this issue of the APEX Team Newsletter.

The main changes are:

- ☑ the maximum threshold of RON 3,400/month is eliminated;
- ☑ the mother will receive monthly compensation amounting to 85% of average of net income obtained during the most recent 12 months of the previous 2 years, but no less than 85% of national minimum gross wage. The notation related to reference social indicator is eliminated. Taking into account the fact that starting the 1st of May 2016, the national minimum gross wage will be RON 1,250, the minimum value of this type of compensation will be RON 1,060/month.
- ☑ compensation is granted until the child is 2 years old;
- ☑ in case of return to activity, mothers receive an insertion incentive amounting to 50% of minimum compensation (85% of national minimum gross wage) – approximately RON 500/month;
- ☑ the level of compensation increases by 85% of national minimum gross wage for each child born as a result of a multiple pregnancy (twins, triplets etc.) starting with the second child born from such a pregnancy;
- ☑ the parent returning from childcare leave cannot be dismissed for six months subsequent to return date.

The amendments will come into force starting the 1st of July 2016.



**Does the
derogatory
declaration regime
simplify or not
the tax
formalities?**



ORDER 378 dated 17 March 2016 to amend and complement Procedure to apply provisions of Government Emergency Ordinance 44/2015 on granting certain fiscal facilities in case of receivables administered by the central fiscal authority, approved by Order of the Minister of Public Finance 3831/2015 (Official Gazette 219/2016)

The Order amends the Procedure to apply GEO 44/2015, which sets the fiscal facility scheme through which delayed payment penalties and the 54.2% interest rate are cancelled. Delayed payment penalties and the 54.2% interest rate are related to main fiscal liabilities to be paid, having a deadline of the 30th of September 2015 and which are itemized on taxation decisions issued following a tax inspection and communicated during the period between the 1st and 21st of October 2015, inclusive.

In order to benefit from these facilities, the following conditions should be fulfilled:

- a) all differences resulting from main liabilities which are itemized on taxation decisions issued following a tax inspection are settled by any means provided by law within 30 days from the 16th of January 2016 (commencement date of Law 4/2016 to approve GEO 44/2015);
- b) 45.8% interest rate related to liabilities provided per letter a) and itemized on taxation decisions/decisions regarding additional fiscal liabilities is settled by any means provided by law by the 15th of April 2016, meaning within 90 days from the 16th of January 2016 (commencement date of Law 4/2016) or the payment date provided by the Fiscal Procedure Code (art. 156 para. (1)) in the case where decisions related to additional fiscal liabilities are communicated subsequent to the 90-day period;
- c) application to cancel additional liabilities is submitted by the 15th of April 2016, under penalty of preclusion.

ORDER 950 dated 8 March 2016 to amend ANAF Presidential Order 52/2012 to approve template and content of certain forms provided by Title III of Law 571/2003 on the Fiscal Code (Official Gazette 188/2016)

The Order updates instructions to complete and submit form 200, Statement of Income in Romania, by amending instructions on declaring income obtained from gambling activities.

ORDER 825 dated 24 February 2016 to approve template and content of Re-verification decision (Official Gazette 165/2016)

The Order approves a Re-verification decision, an administrative act issued by the chief of the tax inspection structure to re-verify a specified period, following the appearance of additional information, unknown to tax inspectors when the initial verification was performed. This information influences results of the verification.

COMPETITION LAW 21 dated 10 April 1996 – republished (Official Gazette 153/2016)

LAW 26 dated 17 March 2016 to ratify Agreement between Government of Romania and Government of United Arab Emirates to avoid double taxation and to prevent tax evasion on income taxes, signed in Dubai on the 4th of May 2016 (Official Gazette 225/2016)

The new Agreement will affect income paid on or subsequent to the first day of the month of January of the calendar year following the year when the Agreement came into force, meaning the 1st of January 2017.

The Agreement sets a tax rate of 3% for income obtained from interest, dividends and royalties, paid by a resident of a state to a beneficiary in another state.

LAW 27 dated 17 March 2016 to ratify Convention between Romania and the Kingdom of Norway to avoid double taxation and to prevent tax evasion on income, signed in Oslo on the 27th of April 2015 (Official Gazette 218/2016)

The new Convention will affect income paid on or subsequent to the first day of the month of January of the calendar year following the year when the Convention came into force, meaning the 1st of January 2017.



**The Competition
Law was
republished**



The Convention sets a tax rate of 5% for income obtained from interest or royalties paid by a resident of a state to a beneficiary in another state. For dividends, the standard tax rate of 10% is set at a reduced tax rate of 5%, in cases where the beneficiary of dividends holds at least 10% of share capital of the payer.

LAW 28 date 17 March 2016 to ratify Convention between Romania and Republic of Italy to avoid double taxation on income and to prevent tax evasion and Additional Protocol to Convention, signed in Riga on the 25th of April 2015 (Official Gazette 217/2016)

The new Convention will affect income paid on or subsequent to the first day of the month of January of the calendar year following the year when the Convention came into force, meaning the 1st of January 2017.

The Convention sets a tax rate of 5% for income obtained from interest or royalties paid by a resident of a state to a beneficiary in another state. For dividends, the standard tax rate of 5% is exempt from taxation when the beneficiary of dividends holds at least 10% of share capital of the payer, for a continuous period of 2 years.

By applying the Fiscal Code, the standard tax rate for dividends is 5% with the possibility of exemption if the beneficiary holds at least a 10% ownership interest for a continuous period of 1 year. Thus, the Fiscal Code has more favourable conditions than the convention to avoid double taxation with Italy in the case of dividends.

LAW 29 dated 17 March 2016 to ratify Convention between Romania and Bulgaria to avoid double taxation and to prevent income tax evasion, signed in Craiova on the 24th of April 2015 (Official Gazette 220/2016)

The new Convention will affect income paid on or subsequent to the first day of the month of January of the calendar year following the year when the Convention came into force, meaning the 1st of January 2017.

The Convention sets a tax rate of 5% for income obtained from interest, dividends and royalties, paid by a resident of a state to a beneficiary in another state. By applying the Fiscal Code, the standard tax rate for dividends of 5% has the possibility of exemption if the beneficiary holds at least 10% ownership for a continuous period of 1 year. Thus, conditions in the case of dividends are also more favourable in the Fiscal Code than the convention to avoid double taxation with Bulgaria.

ORDER 223 dated 11 February 2016 to amend Order of the Minister of Environment and Water Administration to approve template and content of Environment Fund Statement form as well as instructions to complete and submit (Official Gazette 166/2016)

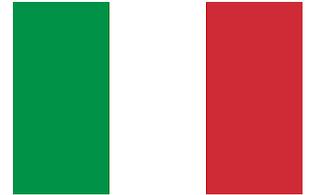
The Order updates Environment Fund Statement form as well as the instructions to complete and submit this form.

ORDER 1053 dated 17 March 2016 to amend and complement ANAF Presidential Order 587/2016 to approve template and content of forms used to declare taxes and contributions under self-assessment or withholding regime (Official Gazette 209/2016)

The Order re-phrases the legal basis for 3 fiscal liabilities, which are included in the List of fiscal liabilities payable to the State Budget and introduces 2 new positions, Vice Tax and Video-Lottery Tax. The instructions to complete form 100, State Budget liability return, are also updated.

ORDER 962 dated 11 March 2016 to approve Procedure to set ex officio taxes and contributions under self-assessment or withholding regime (Official Gazette 233/2016)

ORDER 829 dated 23 February 2016 to approve Norms on economic operator access to EMCS-RO application – Control of movements performed under regime of suspension for excise taxes with excisable products and to register online forms related to purchases and deliveries of products subject to excise taxes (Official Gazette 179/2016)



**New conventions
to avoid double
taxation were
enforced**

ORDER 839 dated 24 February 2016 to approve Technical Norms to authorize storerooms and perimeters for temporary storage and Technical Norms to register warehouses used in tax-

ORDER 839 dated 24 February 2016 to approve Technical Norms to authorize storerooms and perimeters for temporary storage and Technical Norms to register warehouses used in tax-free zones



REMINDER – Valuation of monetary items in foreign currency

The March 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 = 4,4738 RON; 1 CHF = 4,0872 RON; 1 GBP = 5,6566 RON; 1 USD = 3,9349 RON

APRIL 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 organise 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 April 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#apr



Do not forget the deadlines to submit the tax returns and to pay the taxes!

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 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 2,681 =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 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 1050) for every 100 employees	
Minimum monthly gross salary	RON 1050 (RON 1250 starting 1 May 2016)	
Luncheon voucher - employee subject to salary starting May 2015	RON 9.41	
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